



The Position of Auction Treatise Deed in The Process of Motor-Vehicle Title Transfer (The Case Study in Pekanbaru)

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Abstract

The auction process is regulated in Minister of Finance Regulation No. 27/PMK.06/2016 concerning instructions for conducting the auction. The existence of treatise on the law of auction is certainly essential for the seller and the buyer since it relates to the need for proof of legal ownership of the object being auctioned for both movable and immovable properties. A proof of transfer of ownership of motor vehicles is in the form of treatise of auction made by auction officials. It serves as a valid sale and purchase deed and as the basis for the title transfer of the auction winner. However, in fact, in Pekanbaru there are still many non-execution auction winners who do not transfer the title based on the auction treatise but instead use receipts. Based on this fact, the researcher formulates the research problems as follow: (1) How is the process of transferring the title of a motor vehicle through a non-execution auction in Pekanbaru? (2) How is the position of an auction treatise deed in the process of transferring the title of a motor vehicle in Pekanbaru? The research method of this study is empirical juridical research. Based on the results of the study: 1) Transfer of title process of motor vehicle resulting from the voluntary non-execution auction in Pekanbaru City is not yet in accordance with the Republic of Indonesia Police Chief Regulation No. 5 of 2012 that the auction winner who transfers the title of a motor vehicle from non-execution or private auction only attaches a receipt instead of the auction treatise deed. 2) The auction treatise deed can be used as a valid sale and purchase deed for the buyer of an auction. Since the auction treatise deed is a valid sale and purchase deed, the auction treatise deed can be used to conduct the process of transfer of title. Auction treatise deed serves as the basis for transferring the title/ changing/ moving the rights in accordance with the objects stated in the auction treatise deed to the authorized institution. The auction treatise deed is an authentic deed which has perfect proof position so that it has legal certainty.

Keywords: Treatise on the Law of Auction; Transfer of Title

Introduction

Since the concept of auction that became a part of the economic and financial sector is formed, the auction becomes very popular in Indonesia¹. It is because the Auction Regulation (*Vendue Reglement*) is officially enacted as stated in the *Staatsblad*: 1908 Number 189 which has been amended by *Staatsblad*: 1940 Number 56, and was last amended by *Staatsblad* 1941: Number 3, and Auction Instruction (*Vendue Instructie*) *Staatsblad*: 1908 Number 190 that has been amended several times, and finally amended by *Staatsblad*: 1930 Number 85.

The auction is also regulated in Article 1 point (1) Regulation of the Minister of Finance of the Republic of Indonesia Number 93/PMK.06/2010 as amended by Regulation of the Minister of Finance of the Republic of Indonesia Number 106/PMK.06/2013 concerning Auction Implementation Guidelines, and finally amended by Regulation of The Minister of Finance Number 27/PMK.06/2016 which states that an auction is the sale of goods open to the public by offering written and/or oral prices that can be increased or decreased to reach the highest price, which is preceded by the announcement of the auction.

In the auction rules in Indonesia, there are two types of Auction Officers including Auction Officers Class I and Auction Officers Class II. Auction Officers Class I are auction officials of the Directorate General of State Assets who are authorized to carry out the execution Auction, non-compulsory execution of the Auction and non-voluntary execution. Whereas the Auction Officer Class II is a private auction official who is authorized to carry out the Auction non voluntary execution. Auction Officers Class II are private auction officials based on laws and regulations given special authority to carry out the sale of goods by auction non voluntary execution. The Auction officers Class II are private persons whose appointment and dismissal are carried out by the Director General under the Minister of Finance.²

People who can be the Auction Officer Class II are clearly stated in the Minister of Finance Decree No. 451/KMK.01/2002 in Article 4 paragraph 3 that: "Auction Officer Class II are certain people appointed to the positions from: Notaries, Appraisers, Retired Civil Servants, Directorate General of State Assets, Education and Training Graduates Auction Officer held by the Ministry of Finance's Financial Education and Training Agency".

In this study, the researcher chooses Pekanbaru as the research location. The city of Pekanbaru has rapid economic growth and is accompanied by rapid development. One of the dominant economic activities in Pekanbaru is buying and selling. The number of buying and selling transactions makes the transaction method in the form of an auction grow rapidly in the society. This activity continues to grow both from the type of goods that become the object of auction and individual and legal entity buyers³. It is one of the considerations for the State Assets and Auction Service Office to place Auction Officer Class II to assist their task in collecting State revenues from the auction sector, that is the auction of non-voluntary executions which are authorized by Auction Officer Class II.

¹ Leimona, Beria, and L. Roman Carrasco. "Auction winning, social dynamics and non-compliance in a payment for ecosystem services scheme in Indonesia." *Land Use Policy* 63 (2017): 632-644.

² Rachmadi Usman, *Treatise Law*, Jakarta: Sinar Grafika, 2016, page 12

³ Ajayi, Oluyede C., B. Kelsey Jack, and Beria Leimona. "Auction design for the private provision of public goods in developing countries: lessons from payments for environmental services in Malawi and Indonesia." *World development* 40.6 (2012): 1213-1223.

Research Method

The Approach Method

The problem approach that will be used in this study is an empirical juridical approach.⁴ It is a study that not only looks at positive legal aspects, but also looks at what applications in the field and society are, and researches towards the parties involved in the process of transferring of the title based on the auction treatise.⁵

The Nature of the Research

This research is descriptive analytical research. It describes and explains the object of the study in a complete, clear and objective manner related to the problem.⁶ In this study, the author describes the implementation of the process of transferring a title of a motor-vehicle based on the auction treatise.

Types and Data Sources

This study uses two kinds of data:

- a. Primary data is the data obtained directly in the field through interviews with Respondents.
- b. Secondary data is the data that consists of legal materials such as:
 - 1) Primary legal materials are binding legal materials such as legislation and jurisprudence including:
 - a. The 1945 Constitution;
 - b. Code of Civil law (*Burgelijke Wetboek*)
 - c. Law Number 2 Year 2014 concerning changes to Law Number 30 Year 2004 concerning Notary Position;
 - d. Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions;
 - e. Auction Rules, *Vendue Reglement* Stb.1908 No.189 that was last amended Stb.1941 No. 3;
 - f. Auction Instructions, *Vendue Instructie* Stb. 1908 No. 190 concerning the Implementation of the Auction, then amended by Stb. 1930 No. 85;
 - g. Regulation of the Minister of Finance of the Republic of Indonesia Number 27/PMK.06/2016 concerning Auction Implementation Guidelines;
 - h. Regulation of the Minister of Finance of the Republic of Indonesia Number 189/PMK.06/2017 concerning Auction Officer Class II;
 - i. Minister of Finance Regulation Number 160/PMK.06/2013 concerning Auction Hall;
 - j. *Kapolri* (the head of police of Republic of Indonesia) Regulation Number 5 of 2012 concerning Motor Vehicle Registration and Identification.
 - k. Regulation of the Directorate General of State Assets Number 5/KN/2017 concerning auction treatise.

⁴ McConville, Mike, ed. *Research methods for law*. Edinburgh University Press, 2017.

⁵ Lawless, Robert M., Jennifer K. Robbennolt, and Thomas Ulen. *Empirical methods in law*. New York: Aspen Publishers, 2010.

⁶ Fairclough, Norman. "Critical discourse analysis as a method in social scientific research." *Methods of critical discourse analysis* 5.11 (2001): 121-138.

- 2) Secondary legal materials are the legal materials that provide an explanation of primary legal material, which includes:
 - a. Literature or the results of writing in the form of research results consisting of scientific books and journals
 - b. The work of legal practitioners and the writings of experts
 - c. Legal theories and scholarly opinions through the literature used
- 3) Tertiary legal materials are the legal materials that provide guidance and explanation of primary legal materials and secondary legal materials such as legal dictionaries and binding legal materials, especially in the field of auction.

Data collection technique

To obtain the data needed in this legal research, researchers used data collection techniques as follows:

- a. Documents study includes the study of legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The document study is a technique of collecting data by looking for the theoretical foundation of the problem under study by studying documents and data relating to the object to be studied.
- b. Interviews were conducted at Auction Officers Class II, leaders or employees of the One-stop Administration Services Office (*samsat*), the owner of the Auction Center and the bidders who were made as the respondents. This interview is carried out with semi-structured techniques by making a list of questions but the interviewer may add or develop questions in conducting the interview by focusing on the problem under the study.

Data Processing and Analysis Techniques

The data that has been obtained is processed by editing and coding. Editing is a process of re-researching records, files, information collected by the data seekers to improve the quality of reliability of the data to be analyzed. Coding is the stage after editing by giving certain signs or certain codes to determine the data that is relevant or really needed.

Analysis of the data to be used is qualitative with a description of the data analyzed based on legislation and the opinions of experts. Furthermore, the data is presented with the sentence that has been previously analyzed, then the researcher interprets and draws conclusions according to the problems discussed.

Research Findings and Discussion

The process of transferring of the title of a motor-vehicle through a non-execution auction in Pekanbaru

In the auction process, if the auction winner has been obtained, and after the rights and obligations have been completed properly and perfectly, the auctioneer hands over the car to the auction winner. In addition, the auction winner / motor-vehicle owner must report to the Indonesian National Police if the ownership of the motor vehicle has been 'switched'. "Switching" means motor-vehicle that have been sold or granted. Regular registration and identification (Regident) include "Transfer of Motor-Vehicle Ownership", while registration and identification of transfer of the ownership of motor-vehicle include among others due to auction. Based on the above conditions, the auction winner carries the car

along with the complete documents to be registered and identified, to complete the title transfer fee to the One-stop Administration Services Office.

Each local tax has been regulated in regional regulations. The regional regulation regulates everything concerning the subject, object, tariff and how the rules apply. According to Law Number 28 of 2009, regional tax is the contribution of taxpayers to regions that are indebted by individuals or entities that are compelling based on the law, by not getting direct compensation and used for regional needs for the greatest prosperity of the people. One of the regional taxes that provide income to local governments is the fee for title transfer of Motor-vehicle.

Every vehicle owner needs to know about this transfer fee to ensure the legal ownership of the motor-vehicle. The most important thing is how to know the procedure of implementation. Because by knowing the implementation procedure, we will easily complete the title transfer fee that brings convenience for both the taxpayers and the officers.

In transferring the title of the vehicle, the documents that need to be prepared are as follows:

- a. The original and photocopy of proof of motor vehicle ownership
- b. The original and photocopy of vehicle registration certificate
- c. Car Buyer's Original Identity Card (photocopy of the current vehicle owner's Identity Card)
- d. Original receipt of car purchase.

The steps in completion of title transfer fees for vehicles in Pekanbaru are:

1. After preparing all the required administration, go directly to One-stop Administration Services Office located on Jalan Jend. Sudirman
2. The vehicle is immediately taken to the location of the physical check of the vehicle at the back of the office
3. Report to the officer at the counter that we want to transfer the title of the vehicle and submit a photocopy of the administration and the originals that we have prepared in advance
4. After the file is verified by the officer, we will get the physical check form by the officer. Next, we ask for help from the service providers who are willing to do physical checks
5. After the physical check of the vehicle is carried out, the next step is reporting back to the officer who verified our file for the first time
6. The officer will instruct us to report the proof of motor vehicle ownership whose ownership status will be changed to the Directorate of Traffic which is on Jalan Senapelan
7. The next step after arriving at Directorate of Traffic is filling in the form provided (fill in the form according to the instructions provided). After the form is filled in, then report to the officer at the counter
8. After the officer verifies the file, then we pay for the administrative costs of the process of title transfer
9. After the receipt for taking the proof of motor vehicle ownership is received, return to *samsat* for payment of taxes
10. Directly go to the window for submission of files, wait a few moments and our names will be called to get the form. Take the queue number through the officer.
11. While waiting for the queue, fill in the form as soon as possible because the queue number runs fast. If our queue number has been called, immediately submit the form we have filled in. The officer will ask us to wait a moment.

12. Our name will be called to pay a certain amount of tax. After the tax is paid, the officer will provide a new vehicle registration with an ownership identity in our own name.⁷

The price and cost of transferring the title of the car between one type of car and the other is very different. Starting March 6, 2019, the government has enacted Government Regulation number 60 of 2016 concerning the types and rates of non-tax State revenues. The regulation is stipulated and applies to four-wheeled and two-wheeled vehicles.

The process of calculating the title transfer fee is explained as follows:

If the fees listed on the vehicle registration certificate are IDR 1,500,000, the Transfer of Vehicle Title Fee is IDR 1,000,000. The contribution of the mandatory traffic accident fund will be added to the amount of IDR 143,000 plus the vehicle registration certificate administration of IDR 250,000 (along with issuance fees for authorization), and motorize vehicle number sign fees of IDR 100,000 so the total is IDR 2,993,000. This fee does not include fines if any. For non-tax fees that must be paid is IDR 50,000 for the physical check of the vehicle, the list of return names for the vehicle registration certificate is IDR 30,000, the issuance fee for the proof of motor vehicle ownership is IDR 375,000, so the overall total cost besides the taxes is IDR 725,000.

If the cost is seen as a whole, it is indeed quite much, and the greater the vehicle registration fee listed will affect the total overall cost to be paid. However, the price is a reasonable price considering the importance of the process of transferring the title. Moreover, there are some costs that have been officially set by the government that cannot be played by irresponsible parties.

Article 55 paragraph 1 of the Regulation of the Head of the Indonesian National Police Number 5 of 2012 concerning Registration and identification of motor-vehicle states that transfer of ownership of motor-vehicle, one of which occurs because the auction is a consequence of the implementation of the agreement, court decisions that have permanent legal force or the removal of motor-vehicle owned by government agencies/ regional government, State/ regional or private business entity.

Issuance of proof of ownership of motor-vehicle must meet the following requirements:

- a. Filling out the application form
- b. Attaching identity documents 1. For individuals, consisting of Resident's Identity Cards and sufficient stamped power of attorney for those represented by others, 2. For legal entities, consisting of: sufficiently stamped power of attorney, using legal entity letterhead and signed by the leader and stamp of the legal entity concerned, photocopy of the Identity Card of the authorized person, domicile certificate and trading business license and legalized taxpayer's license number. 3. For government agencies consisting of: sufficiently stamped power of attorney, using government agency letterhead and signed by the leader as well as stamped stamp of the institution concerned and attaching a photocopy of the Citizenship Certificate that is authorized.
- c. Proof of transfer of ownership of motor-vehicle in the form of auction treatise of motor-vehicle and/ or court decisions that have permanent legal force for transfer due to the auction
- d. Proof of Motor Vehicle Owner
- e. Vehicle registration certificate
- f. Check results of physical checks of motor vehicles.⁸

⁷ Interview with Harnita, employee of One-stop Administration Services Office Pekanbaru, on November 12, 2018

⁸ Article 56 paragraph 1 of the Regulation of the Head of the Indonesian National Police Number 5 of 2010

However, in fact, the auction winners transfer the title of the auction results without following the specified procedure. They do it with the help of the bureau and come to the used showroom. When the unit and Proof of Motor Vehicle Owner are in the hands of the auction winner, transferring the title does not require auction treaties. The required requirements are Receipts, Resident Identity Cards, and Vehicle Invoices.⁹

Meanwhile, according to Pekanbaru One-stop Administration Services Office employees, the terms of the transfer of property rights are divided into two types. The first one is government auctions with original auction treatise copy, receipts, details of auction results, auction winner certificates, physical checks for frame numbers and machines. The second one is private auctions whose requirements are only with requirements of buying and selling receipts without the auction treatise. It means that the terms of the transfer of ownership of the private auction are the same as the normal terms of sale.¹⁰

In 2017 PT *Balai Lelang Serasi* has conducted an auction through the Auction Officer Class II, Dr.H. Khalidin, SH, MH. There were 1544 units, and only 1 (one) that requested the auction copy. It was based on the auction treatise copy on October 18, 2017 (eighteenth of October two thousand and seventeen) that the winner on behalf of Ali Sardani on the auction of 1 (one) unit of motor vehicle with four wheels with the police numbers BM 1034 JN, Toyota Avanza 2015 (two thousand and fifteen), metallic Red, Machine Number 1nr067543, and frame number Mhkm5eb3jfk002925.¹¹

The Position of Auction Treatise Deed in a Process of Title Transfer of Motor-Vehicle in Pekanbaru

The auction treatises issued by Auction Officer Class II consist of: auction treatise deed is the original auction treatise along with the attachments, which are state documents/ records; auction treatise copy is a copy word for word from one or more parts of the auction treatise given to the buyer; a copy of the auction treatise is a word-for-word copy of all auction treatises given to the seller, to the superintendent as a report and the competent agency for the things that require the title transfer; and grosse auction treatise is the original copy of the auction with the heading "FOR THE JUSTICE BASED ON THE ALMIGHTY GOD" and only issued at the request of the buyer or his proxy.

The copy of auction treatise are made in the following manner: the word *KUTIPAN* (COPY) is written in the first page of the auction treatise, parallel to the words "*RISALAH LELANG*" (AUCTION TREATISE) on the lower right before the signature of the Head of Auction Officer Class II on sufficient stamp followed by a statement "a copy is given to the buyer as a sale and purchase deed" with the date of issuance. In the signature section of the seller's officer, if there is an attachment to the details of the item, then the attachment shall be signed by the Auction Officer Class II and stamped.

Copies of the auction treatises are made in the following manner: the word 'copy' is written on the first page of the auction treatise, above the words "AUCTION TREATISE", and on the last page of the auction treatise on the right before the signature of Auction Officer Class II, with the statement "Copies are given based on the original".

Grosse auction treatises are made as follows: the phrase "FOR JUSTICE BASED ON THE ALMIGHTY GODS" is written on the first page of the auction treatise, above the word AUCTION TREATISE. On the last page on the lower right before the signature of the head of the Auction Officer Class II on the stamp, there is a statement "given as a grosse", stating the name of the person requesting it

⁹ Interview with Mr. Nuriman, Branch Manager of PT Serasi Pekanbaru Auction Hall, on July 9, 2018

¹⁰ Interview with Ibu Harnita, employee of One-stop Administration Services Office Pekanbaru, on October 11, 2018

¹¹ Interview with Dr.H Khalidin, SH, MH, the Auction Officer Class II Pekanbaru, on June 12, 2018

and for whom the grosse is issued and the date of its issuance. Each page must have initial of Auction Officer Class II and the label of the position. If the auction officer concerned is absent, it is still initialed by the authorized official.

For the auction of movable properties in the form of cars and motorbikes, the issuance of auction treatise in the form of copies is issued 3 (three) copies, respectively for Director of DJKN auction in Jakarta, for Pekanbaru DJKN superintendent, and the last one is for auction center as auction organizer. Whereas, for the auction buyers, an auction copy is given. The auction treatise is covered: pink for immovable property or immovable property which are joined by movable property, and light yellow for movable property.

To fulfill the stamp duty law, the Auction Officers Class II impose stamp duty rules on the seller, as stated below: stamp duty for the auction treatise deed is charged to the seller, the stamp duty for the copy of auction treatise is charged to the buyer, the stamp duty for the grosse auction treatise is charged to the buyer, and the stamp duty for the copy of the auction treatise shall be borne by the interested party. A copy of the auction treatise for auction reports/ official interests is not stamped. Auction treatise deed, duplicates of auction treatise and auction treatise copy are made and completed no later than 5 (five) working days after the auction. Minuta auction treatises are kept neatly and regularly in the office of the Auction Officer Class II according to the serial number and fiscal year.

An auction officer must make an auction treatise in accordance with the instructions in the Minister of Finance Regulation Number 27/PMK.06/2016 concerning auction instructions consisting of heads which contain at least: 1. Days, dates and hours of auction are written in letters and numbers, 2. Full names, occupations and residences of auction officers, 3. Full name, occupation and seller's place/ domicile, 4. The opinion of the relevant auction officer regarding the analysis of the subject and object of the auction, 5. Number / date of the auction application letter, 6. Place of auction, 7. The nature of the item being auctioned and the reason for the item being auctioned. The contents covers at least: 1. Number of incoming and legitimate auction offers, 2. Name of goods auctioned, 3. name, occupation, and address of the buyer, as a buyer on his own behalf or as a proxy on behalf of another person, 4. The buyer's creditor bank for a person or legal entity or business entity to be named, 5. The auction price with numbers and letters, the list of items sold / held contains the buyer's value, name, address. In addition, the foot section contains: 1. The number of items bid/ auctioned with numbers and letters, 2. The total value of goods that have been sold with numbers and letters, 3. Number of letters attached to the auction treatise with numbers and letters, 4. The amount of the value of items held with numbers and letters, 5. Amount of changes made (notes, additions, streaks with replacements) or no changes written with numbers and letters, 6. Signature of the auction official, seller/ sales attorney in the event that the auction item does not move, the buyer/ proxy of the buyer can also sign the auction minutes. Furthermore, the auction treatise must be read in front of the auction participant and the seller before the auction takes place. Without auction treatise, auctions carried out by auction officer are not valid. Such auctions do not provide legal certainty about matters that occur, because what happened is not clearly recorded so that it can cause uncertainty.

The auction treatise clause is the conditions in the auction sale and purchase agreement, which must be complied with by the seller/ owner of the goods, auction buyers and Auction Officer Class II, in conducting the auction to realize legal protection and certainty, that includes:

1. The auction participant may submit bids in this auction after depositing guarantee bids for the auction offer in accordance with the auction announcement with the following conditions: a. money guarantee auction offers from bidders authorized as buyers will be calculated by repayment of auction payment obligations, b. money guarantee auction offers from bidders not authorized as buyers will be returned in full without any deductions, c. money guaranteed that the auction offer will be deposited to the rightful according to the agreement between the

auction center and the owner of the goods, if the auction participant ratified as the buyer does not settle the auction payment obligations in accordance with the provisions.

2. The auction participant that has been ratified as a buyer is fully responsible for repayment of auction payment obligations and other official fees based on the laws and regulations of this auction, even though in his offer, he acts as a proxy of a person, company or legal entity.
3. The buyer is not permitted to take/ control the goods he bought before fulfilling the auction payment obligations. If the bidder or buyer violates this provision, it is deemed to have committed a crime that could be prosecuted by the authorities.
4. The auction participants or their authorized proxies must be present at the time of auction.
5. Goods sold at this auction are the rights and responsibilities of the buyer and must immediately take care of the goods.

PT *Balai Lelang Serasi* directs and requires buyers/ auction winners to transfer the title so that unwanted things do not happen later on. According to Nuriman as the head of PT *Balai Lelang Serasi*, transferring the title should use the auction copy, but most auction buyers or winners in Pekanbaru use the services of the bureau to transfer the title of the car they got from the auction.¹²

Sales through auction are part of the occurrence of the transfer of rights through the process of buying and selling between the parties. The transfer of rights through auction can only be registered if it is proven by the existence of auction treatise made by auction officers who are general officers, and the treatises of the auction are made in the work area of the auction officers concerned. The auction treatises are basically the proof of the existence of a transfer of rights. There is a direct change in juridical data on motor-vehicle sold through auction.

Article 1870 states that authentic deeds have perfect proof power. For example, if the deed is an agreement that binds the parties that agree to make the agreement, someday when a legal dispute occurs in the future, then the authentic deed is the perfect proof and does not need to be proven by other evidence. Since the treatises of the auction are also authentic deeds, the strength of the evidence also applies. The auction treatises as authentic deeds that have perfect proof power are also in terms of material form.

The auction treatise can be used as a valid sale and purchase deed for the buyer of an auction. Therefore, it can be used to transfer the title. It serves as the basis for transferring the title/ transfer of rights in accordance with the items stated in the treatise of the auction to the authorized institution. In Article 1 paragraph 15 of the Regulation of the Head of the Indonesian National Police Number 5 of 2012 concerning Registration and identification of motor-vehicle, the proof of legal motor vehicle ownership is the initial proof of ownership of motor-vehicle in the form of invoices of motor vehicles, auction treatise, certificate of inheritance, grant certificate, statement from the heir and/ or receipt of purchase.

In addition, the auction treatise can be used 1. for official purposes: a. for the Land office, as the basis for the transfer of land rights. b. for treasurer of goods, as the basis for deletion of goods auctioned from the inventory list, c. for the prosecutor's office/ district court as proof that it has carried out the sale in accordance with the auction procedure, d. for banks as a basis for mortgage/ write off mortgages. 2. For the buyer as a sale and purchase deed, which is legal proof that he has made a purchase. 3. For the seller

¹² Interview with Mr. Nuriman, Branch Manager of PT. *Balai Lelang Serasi Pekanbaru*, on July 9, 2018

as proof that the seller has made a sale according to the auction procedure, 4. For the auction administration as the basis for calculating auction fees.

However, in reality the winner of the motor-vehicle auction did not use the auction treatise in transferring the title of the motor-vehicle. They only came to the used car showroom to transfer the title and the former showroom took care of all the affairs. Moreover, there was also one of the auction winners in 2017 through PT *Balai Lelang Serasi* that has conducted an auction through the Auction Officer Class II, Dr.H. Khalidin, SH, MH, for 1544 units, and those who requested the copy of the auction treatise were only 1 (one). It is based on the copy of the auction treatise on October 18, 2017 (eighteenth of October, two thousand and seventeen).

Legal certainty is the profit given in auction and purchase because auction officials make and supply it with the auction treaty deed which is an authentic deed as intended in Article 1868 of the Civil Code, and in Article 1870 and Article 1871 which are perfect verification tools for parties that are directly or indirectly related. It means that the truth of things written and related directly to the subject matter of the deed is considered true as long as no other party can prove otherwise.

Indonesia as a legal state has arranged that the seller must be responsible for his property to be auctioned in order to provide legal certainty to the buyer. Therefore, auction officers are not given the authority to auction off the illegal goods.

Gustav Radbruch mentioned 4 (four) basic things related to the meaning of legal certainty. The first one is that the law is positive which means legislation. The second one is that law is based on facts, meaning based on reality. The third one is that the facts must be formulated in a clear way so that they are easy to implement and to avoid errors in meaning. Last but not least, the fourth one is that the positive law cannot be easily changed.¹³

Budiono Kusumohamidjojo argues that legal certainty is almost an absolute requirement for a modern and democratic legal state. Legal certainty as one of the objectives of the law means that there is consistency in the administration of law.¹⁴ Consistency is needed as a reference or benchmark for everyday human behavior in dealing with other humans. The function of legal certainty, among others, is to provide a benchmark for orderly, peaceful, and fair behavior.

Legal certainty is the goal of the law in which we recognize several opinions of legal scholars, including the following: 1. Prof Subekti, SH in a book entitled "The Basics of Law and Courts" affirms that the law serves the purpose of the state: bringing prosperity and happiness to its people. 2. Geny teaches that the law aims solely to achieve justice, as an element of justice mentioned "the interests of usability and expediency". 3. Bentham (Theory of Utilities) argues that the law aims to realize what is beneficial for society. 4. Prof. Mr. J. Van Kan wrote in his book "So there are religious methods, methods of decency, methods of modesty, all of which together participate in the administration and protection of the interests of people in society.

The term legal protection arises because of a violation of the Laws and Regulations that apply specifically to the sale and purchase action. Thus, it is explained in Article 1365 of the Civil Code " Every act that violates the law that brings harm to another person requires the person who issued the loss to compensate for the loss."¹⁵

¹³ <http://www.ngkuitin.hukum.wordpress.com>, accessed on June 20, 2018

¹⁴ Budiono Kusumohamidjojo, *Fair Order: A Problematic Legal Philosophy*, Grasindo: Jakarta, 1999, page 150

¹⁵ Abdul Kadir Muhammad, *Legal Agreement*, PT. Alumni: Bandung, 2006, page 199

Unlawful deeds get protection because the law recognizes certain rights for auction buyers. The law recognizes material rights and will protect them by forcing those who violate these rights to pay compensation to those violated by their rights.¹⁶ Law serves as the protection of human interests. Therefore, the law must be implemented. The implementation of the law can take place normally, peacefully, but it also can occur due to violations of law. These occur when certain legal subjects do not carry out the obligations that should be carried out or because they violate the rights of other legal subjects. Legal subjects who have violated their rights must get legal protection.

Conclusions

1. Provisions of the Police Chief of the Republic of Indonesia No. 5 of 2012 Article 56 paragraph (1) number 2 states that there is a requirement to transfer the title of a movable item including: Motor Vehicle Ownership Book, Vehicle Number, Number Plate, and Auction Treatise Deed. However, in reality, the auction winners carried out the title transfer process of the auction results in a way that is not in accordance with the specified procedure. The auction winners carried it out with the help of the bureau and coming to secondhand showrooms. In this case, if the vehicle unit and Motor Vehicle Ownership Book are in the hands of the auction winner, the title transfer process no longer requires auction treatise deed. Requirements needed are receipts, identity cards, and vehicle invoices. Meanwhile, according to the employees of Pekanbaru One Roof System (*Samsat*), the requirements of the transfer of property rights are divided into two types. First is the government auction with the original auction quotation terms, receipts, details of auction results, auction winner's certificate, physical check for frame and machine numbers. Meanwhile, in private auction, the requirements do not include the auction treatise deed but only the sale and purchase receipt.
2. The auction treatise deed can be used as a valid sale and purchase deed for the buyer of an auction. Since the treatise deed is a valid sale and purchase deed, the treatise deed can be used for the title transfer process. Auction treatise deed serves as the basis for transferring the title/ changing/ moving the rights in accordance with the objects stated in the auction treatise deed to the authorized institution. However, in reality, the auction winner of the motor vehicle did not use the auction treatise deed in carrying out the title transfer process of motor vehicle, the auction treatise deed was only used to carry out the title transfer process in the government auction; whereas, the requirements of title transfer in private auction are the same as the requirements of title transfer in ordinary buying and purchasing process.

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