

JURIDICAL REVIEW OF THE USE OF VIDEO TECHNOLOGY CONFERENCE PRESENCE OF SELLERS AND WITNESSES IN THE IMPLEMENTATION OF AUCTIONS

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ABSTRACT

The study examines legal protections for sellers and witnesses in the conduct of auctions. The procedure of using video conferencing in the presence of sellers and witnesses at the auction. Obstacles in the implementation of auctions using video conferencing technology. The research method used is a normative juridical legal research method with a statutory regulatory approach. Legal protection for sellers and witnesses in the conduct of auctions. Buyers are prohibited from taking or controlling the goods purchased before fulfilling the obligations of auction payments and other obligations in accordance with the laws and regulations. Procedure of using video conferencing in the presence of sellers and witnesses at the auction. The procedure for the use of video conferences begins with the airing of the head of the auction minutes by the auction official, the procedure for the delivery of the auction minutes according to the following provisions; for auctions via electronic with closed bidding, conducted in accordance with the schedule of bookkeeping of the auction bid list as listed in the auction announcement, auction by electronic with open bidding, in accordance with the schedule of auction execution as listed in the auction announcement. Obstacles in the implementation of the auction by using video conferences are the participants of the auction itself, the auction participants do not understand how to run the e-auction application and internet network connection. Obstacles from KPKNL, lack of human resources, especially auction officials who are responsible as admins in operating e-auction application servers.

Keywords: video conferencing technology presence of sellers, witnesses, auction execution

INTRODUCTION

The era of globalization, currently the development of technology and information is running very rapidly and has brought various impacts in people's lives. The Internet is used by almost all people on this earth and is the largest information network in the world. There are various facilities offered by the development of technology and information that can make human relationships take place quickly and easily. Today, many people use the internet media as a medium to trade so-called electronic commerce. The development of trade through the internet network is one of the new innovations in the world of trade. Trade conducted through internet media is done in order to expand the network for consumers. One form of trading conducted through internet media is buying and selling that is done by auction (Karin, 2020). An auction is the sale of an upfront item or the sale of an item that is open to the public at an increased, decreased bid price or with an entry price in a cover or to people who are invited or previously notified of the auction or sale, or are allowed to participate and then be given the opportunity to bid the price in a cover (Salbiah, 2004). Based on PMK No. 27/PMK.06/2016 on Auction Implementation Instructions, auction is the sale of items that are covered to the public with an increasingly increased written and/or oral price offering to achieve the highest price preceded by the Auction Announcement.

One of the results of the development of information and communication technology is video conferencing, where with video conferencing communicant and communicators can see and hear each other. Video conferencing is "a set of interactive telecommunication technologies that allow two or more parties in different locations to interact through simultaneously sending two-way audio and video". In general, the configuration for conducting video conferencing using a computer connected to the internet at a high enough speed and connected to a video camera that will capture images of conference participants who will interact (Purbo, 2002). The Internet in the business world as well as in the community looks to be growing so rapidly, this can be seen from the existence of electronic agreements or contracts where in the business or trade world is called an e-commerce agreement (Munir, 2017). Law No. 19 of 2016 on Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, can be done the agreement can be done without any direct meeting between the two parties, but can be done electronically. The year 2020 is the toughest year that must be lived by the Republic of Indonesia to date is the Corona Virus Disease pandemic 2019 (Covid-19). Make a lot of changes in society, not least the world of work, both in the private environment and government. Changes termed by the media as the 'new normal' or new human behavior that is different and changing from previous behavior, including more limiting direct meetings with stakeholders, something that has never happened before.

Responding to these conditions, the Directorate General of State Wealth c.q. The Directorate of Auctions issued the Regulation of the Directorate General of State Wealth Number: 3/KN/2020, dated March 30, 2020 on Guidance on The Provision of Auction Services at the Office of State Wealth and Auction Services (KPKNL). During the emergency disaster outbreak of disease due to Covid-19. The crucial article is Article 7 paragraph (1), where the presence of sellers' officers and seller witnesses can be done virtually. At the level of implementation of KPKNL Pontianak first applied this regulation when the implementation of the auction of Non-Execution of Mandatory State Property (BMN) belonging to the Ketapang Resort Police in the form of ex-operational vehicles. Sellers "attend" through the Zoom Meeting app, monitoring participants' bargaining sessions through auction officials' share monitor back office (<https://www.djkn.kemenkeu.go.id>).

The implementation of the auction with video conference through the zoom application means follows up on The Director General of KN number: PER-3 / KN / 2020 dated March 20, 2020 on Guidance on Providing Auction Services to KPKNL during emergency disaster outbreak due to Covid-19, so that although not allowed physical contact either through face-to-face direct auction services to stakeholders continue to run (<https://www.djkn.kemenkeu.go.id/kpknl-palopo>).

Participants and buyers but must remain vigilant, in the current era all electronic there are many scams, one of the auctions of goods on behalf of the Directorate General of State Wealth (DKJN) Of The Ministry of Finance and KPKNL is still rife. In addition to the benefits offered, there are also several problems, namely transactions like this have not been able to provide a sense of security, legal certainty, and justice, because the parties in the implementation of the e-auction cannot meet in person as happened in conventional auctions (Karina, 2020). Usually an identifiable quick auction scam, fraudsters will offer items at prices far below those on the market. The letterhead also does not show a specific KPKNL and fraudsters will claim to be DJKN employees who show false identities. (money.kompas).

Signatories to the minuta of the auction minutes by the seller and/or witnesses of the seller in the event of his or her presence through teleconferencing media, video conference, or other electronic media means are given footnotes to the minuta of the auction minutes and serve as a substitute for a valid signature, namely:

1. The seller in the case of the auction sells the phrase "signing cannot be done due to coercive circumstances and the seller approves the goods sold at the highest bid price", in the event of an auction there is no bid phrase "signing cannot be done due to coercive circumstances".
2. Witness of the seller with the phrase "signing cannot be done due to coercive circumstances and witnesses justify the results of the auction"

The implementation of the auction that will be conducted through teleconferencing media, video conference, or other electronic media means, has a strict condition, namely the seller is required to submit an application in writing. Written application is submitted no later than 3 (three) business days before the auction to KPKNL. If the written application is approved by the Head of KPKNL, it is proceeded by notification by the functional auction official / auction official to the seller and / or witnesses from the seller to join through teleconferencing media, video conference, or other electronic media means according to the date and time of the auction. Approval or rejection of the Head of KPKNL with consideration:

1. The health of the seller and/or witnesses of the seller related to Covid-19 in accordance with the health certificate from the government hospital;
2. The safety of the seller's trip and/or witnesses from the Seller to the auction venue from the risk of Covid-19 transmission in accordance with the security certificate from the police; or
3. The presence of the seller cannot be replaced by another officer.

E-auctions in the Covid-19 pandemic need special attention and proper consideration of the health protocols provided and used whether they meet the standards or not in the event that the auction is carried out with a direct presence. On the other hand, e-auction auctions can run smoothly if every facility, electronic media facility, and location that supports electronic media facilities is adequate.

Based on this background, the problem in this study is legal protection for sellers and witnesses in the implementation of auctions. The procedure of using video conferencing in the presence of sellers and witnesses in the conduct of auctions. Obstacles in the implementation of auctions using video conferencing technology.

Legal Protection for Sellers and Witnesses in the Conduct of Auctions

Anyone who wishes to offer their merchandise is first required to join the auction website, by registering themselves as a member. Sellers and buyers are required to fill in the requested data and follow the rules set by the website. Sellers are required to provide pictures and explanations about the goods to be auctioned. The auction website can be accessed for 24 hours non-stop every day. Buyers are facilitated to find the desired item by using search engines or search engines that have been provided in the auction website. With the search engine is very saving time for buyers to search for goods. (Halim, 2015)

Legal protection is repressively provided by HerzienInlandsch Reglement in the event of emptying the auction object can ask the district court for help and in the event of a rebuttal the winner of the auction can file a legal effort in the form of an appeal and cassation. The positive legal rules governing existing auctions have been less supportive of the development of auctions as a buying and selling institution and provide less protection to the interests of auction buyers' rights to the goods they buy. The importance of special legislation regulates the KPKNL to be given the authority to resolve the disputes of the parties in a quick and simple way given the rapid development of the transfer of rights through auctions that have occurred recently because it is practical in the Court requires a long time. Then the District Court issued an Auction Determination and then submitted an auction application to the Auction Office, so that here the District Court is domiciled as a seller (Sianturi, 2013)

Procedure of Using Video Conference In the Presence of Sellers and Witnesses in the Conduct of Auctions

To be able to conduct auction curators must apply with a letter of documents of auction requirements in accordance with the Regulation of the Minister of Finance of the Republic of Indonesia Number 213 / PMK.06 / 2020. After the seller's auction applicant submitted an auction application letter along with the attachment of the requirements to the local KPKNL, KPKNL conducted research on the request. If the file is incomplete, KPKNL will send a letter setting the auction schedule (Adya, 2021). The Provisions of Article 19 of the Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020

concerning the Instructions for the Implementation of Auction paragraph (1) In the implementation of the auction, the Seller must be present at the auction venue.

Paragraph (2) at the Auction conducted by bidding through the Auction Application, the presence of the Seller as referred to in paragraph (1) can be done through electronic media means that allow the Auction Official and Seller to hear and see directly in the auction. Paragraph (3) In the implementation of an auction that requires the presence of witnesses at the auction venue, the provisions of attendance through electronic media means as referred to in paragraph (2) apply also to witnesses from sellers. For prospective buyers, must first register and activate the account on the auction page.djkn.kemenkeu. go.id to attach an ID card and enter the taxpayer's principal number (NPWP) and account number in the personal name.

With the Regulation of the Minister of Finance No. 213 / PMK.06 / 2020 which is supported by the auction method of e-auction auction is carried out transparently, where the auction participants and KPKNL as the implementing institution have little opportunity to behave arbitrarily or on the basis of liking, so that illegal agreements between auction officers and auction participants are difficult to do, besides this method auction participants have the same opportunity to bid (Adya, 2021).

Submission of auction application by the seller can be done through online means, delivery services, and / or submitted directly to KPKNL. In the event, the auction is through the internet, the auction is carried out by the Functional Auction Officer / Auction Official according to the time and place specified in the auction schedule determination letter. This provision, the presence of Sellers and Witnesses of sellers can be present at the auction venue or can be done through teleconferencing media, video conference, or other electronic media means that allow the Functional Officer of the Auction/ Auction Official,

The Seller and/or witnesses see and hear directly in the implementation of the auction on the condition that the Seller must submit a written application to the Head of KPKNL no later than 3 (three) business days before the auction.

The Auction Functional Officer/ Auction Official must record through the application and print a screenshot featuring the Auction Functional Officer/ Auction Official, Seller's Officer, and/or witnesses, where recording is done during the time of auction. Then, the presence of sellers in the implementation of auctions through teleconferencing media, video conferences, or other electronic media means, will be outlined in the Seller's clause on the head of the Auction Minutes (Saragih, 2021).

The auction is held without the physical presence of the seller and witnesses from the seller at the auction venue. As for the auction officials and witnesses from KPKNL remain present at the auction as long as local conditions are still possible. Meanwhile, auction applications can be submitted by the public through the online auction application feature contained on the lelang.go.id page or through a recorded post.(<https://www.kemenkeu.go.id/publikasi/berita-unit>)

In practice, the endorsement of auctions over the internet both with closed bidding requires the presence of The Functional Officer of the Auction / Auction Official, Seller, 1 (one) witness from the auction organizer, and 1 (one) witness from the seller, while the open offer is sufficient with the presence of the Functional Officer of the Auction / Auction Official, and the Seller. The seller, and the witnesses who both saw, heard the auction take place. The conduct of auctions that take place through teleconferencing media, video conferences, or other electronic media means will be recorded, screenshotted, and stored properly. Proof of the recording file becomes an integral part with the Minute Minutes of Auction and screenshot evidence will be attached to the Minuta Risalah Lelang as proof of attendance in the conduct of the auction.

Signatories to the Minuta Minutes of Auction by the Seller and/or witnesses of the Seller in the event of its presence through teleconferencing media, video conferences, or other electronic media means are given footnotes to the Minuta Minutes of Auction and serve as a substitute for valid signatures, namely:

1. The seller in the case of the auction sells the phrase "signing cannot be done due to coercive circumstances and the Seller approves the goods sold at the highest bid price", in the event of the auction there is no bid phrase "signing cannot be done due to coercive circumstances".
2. Witness of the Seller with the phrase "signing cannot be done due to coercive circumstances and witness justifies the outcome of the auction" (Wendo)

In the event that the presence of the Seller and/or witnesses of the Seller is carried out through electronic media means as referred to in Article 19 paragraph (2) and paragraph (3), the Seller must first submit a written application to the Head of KPKNL or the Class II Auction Official no later than 1 (one) business day before the auction. The use of technology with the means of video conferencing in question is where the parties use video conferencing through computers, laptops, mobile phones or other information technology connected to the internet and connected to a video camera that will capture images of conference participants who will interact in the process of making deeds and then will make deeds with deeds as usual basically.

Online auction application files can be submitted via www.lelang.go.id web address. Each stakeholder is given space to upload each scanned file through the intended web address. Auction files that have been entered online and have been verified by KPKNL must be physically submitted to KPKNL within a period of 5 (five) business days. If the auction file has been declared complete and has fulfilled the formal legality of the subject and the object of the auction, then KPKNL will follow up by issuing a letter setting the auction implementation schedule (Wendo). The implementation of the auction online can be accessed by all auction participants who have qualified as specified in the laws and regulations in the auction field. Online auctions or e-auctions can actually be carried out during the Covid-19 pandemic while paying attention to the health protocols that have been determined.

In general, e-auction aims to utilize information and communication technology in the form of the internet. The e-auction application is a web-based auction implementation application in order to facilitate auction participants in participating in auction activities electronically and can optimize the price formed from auction activities for KPKNL.

Online auctions organized by KPKNL include, execution auctions, mandatory non-executive auctions, and voluntary non-executive auctions. Auction offers over the internet are done in two ways, namely:

1. Closed Offer
2. Open Offer, as stipulated in Article 3 PMK No.90 of 2016.

The procedure for the use of video conference begins with the delivery of the head of the auction minutes by the auction official, and the procedure for the delivery of the auction minutes according to the following provisions; for auction via electronic with closed bidding, conducted in accordance with the schedule of bookkeeping the auction bid list as listed in the auction announcement, for auctions via electronic with open bidding, conducted in accordance with the auction schedule as included in the auction announcement.

Legal certainty that gives rise to public confidence in the auction that occurs in the movement of both moving and movable goods is supported by certainty about the parties involved in the auction and the rights and obligations of these parties, among others, the Auction Officer who is a person who is specifically authorized by the Minister of Finance to carry out the sale of goods at auction based on applicable laws and regulations.

Conclusion in the chapter is that the auction is the sale of goods that are open to the public with a written and / or verbal price offer that increases or decreases to reach the highest price, which is preceded by an auction announcement. As a result of the Covid-19 auction conducted with video conference media where the government issued The Minister of Finance Regulation No. 213 / PMK.06 / 2020 Concerning The Instructions for Auction Implementation.

The implementation of the auction that will be conducted through teleconferencing media, video conference, or other electronic media means, has a strict condition, namely the seller is required to submit an application in writing. Written application is submitted no later than 3 (three) business days before the auction to KPKNL. If the written application is approved by the Head of KPKNL further with notice by the Functional Auction Officer / Auction Official to the Seller and / or witnesses from the Seller to join through teleconferencing media, video conference, or other electronic media means according to the date and time of the auction. Approval or rejection of the Head of KPKNL with consideration.

Obstacles in The Implementation of Auctions Using Conference Video Technology

The development of technology through video teleconference as a medium of communication has a huge impact in Indonesia, especially in the field of law. The implementation of video conferencing of parties outside not only one can even be done in more than one place. Because it is not impossible that these activities require communication in many places. Of course, this activity must be supported with adequate devices. (Luthvi, 2011)

The stage of auction using video conferencing technology also requires a lot of process so that it can take a long time and interfere with other work. In addition, as a part of carrying out an auction event, the cooperative must spend quite a lot of money.

The e-auction was conducted by KPKNL and the Auction Hall. Auctions through the internet or e-auction is considered very effective and efficient and can be done anywhere for participants. The e-auction also no longer needs to be done face-to-face on the day, place, and time of implementation that has been predetermined (Karina, 2020). In addition to the effects encountered also obstacles in its implementation, namely technical barriers.

1. In the event that there is a technical disruption to the application in the conduct of the Auction that occurs before or after the auction begins, KPKNL or the Auction House is authorized to take the necessary actions, including canceling the auction. Against such actions, sellers, auctioneers, and/or other parties cannot claim damages.
2. Auction, exempt from liability for losses suffered by Auction Participants resulting directly or indirectly from:
 - a) errors and/or omissions of Bidders or other parties in the submission of auction bids;
 - b) failure of participants to submit auction bids due to interference with the networking of data communication used by the Bidder;
 - c) the actions of other parties on behalf of KPKNL or the Auction Hall and harming the Bidders;
 - d) the condition of the goods;
 - e) unofficial payments to parties other than to KPKNL or Auction Houses which in any way on behalf of KPKNL or the Auction House or negligence of writing accounts and/ or other information and / or negligence of the bank;
 - f) viruses or other malicious software (bots, scripts, automation tools other than Power Merchant features, hacking toolij obtained by accessing, or connecting to KPKNL services or Auction Houses;
 - g) enforcement actions taken in connection with the User's account; or
 - h) the existence of hacking actions carried out by third parties to user accounts.

Facts show there are obstacles in the implementation of e-auction auctions, namely: electronic media that are less supportive, auction venues that are difficult to reach the internet, the delivery of physical files of auction applications that go through the specified time. This needs to be addressed with several actions and policies that should be taken both as a Functional Auction Officer / Auction Official and from the Head of KPKNL while coordinating with the Directorate of Auctions. Policies or actions taken are certainly carried out so that the implementation of e-auction auctions is still considered effective and efficient by work units and stakeholders who have contributed to the implementation of auctions in Indonesia.

(<https://www.djkn.kemenkeu.go.id/kpknk-jayapura>).

The implementation of auctions through the internet there are several obstacles felt by KPKNL, sellers and auction participants, the obstacles are:

1. Obstacles from the bidders themselves. Obstacles faced by auction participants in the implementation of auctions through the internet, that is, auction participants do not understand how to run the e-auction application and internet network connection.
2. Buyer barriers. The obstacle felt by buyers when going to conduct auction executions over the internet is the absence of guarantees in the mastery of the object of the auction.
3. Obstacles from KPKNL. With the KPKNL work area, KPKNL lacks human resources, especially auction officials who are responsible as admins in operating auction application servers.

Conclusion

- a. Legal protection for sellers and witnesses in the conduct of auctions. Buyer is prohibited from taking or controlling the goods purchased before fulfilling the Auction Payment Obligation and other obligations that are valid in accordance with the laws and regulations.
- b. The procedure of using video conferencing in the presence of sellers and witnesses in the conduct of auctions. The procedure for using video conference begins with the delivery of the head of the auction minutes by the auction official, and the procedure for the delivery of the auction minutes according to the provisions of the auction minutes, namely for auctions via electronic with closed bidding, carried out in accordance with the schedule of bookkeeping the list of auction bids as listed in the auction announcement, for auctions through electronics with open bidding, conducted in accordance with the schedule of auctions as included in the auction announcement.
- c. The obstacles faced by auction participants in the implementation of auctions over the internet is, auction participants do not understand how to run the e-auction application and internet network connection. Buyer barriers. The obstacle felt by buyers when going to conduct auction executions over the internet is the absence of guarantees in the mastery of the object of the auction. The obstacle felt by the buyer when going to conduct an execution auction over the internet is the absence of guarantees in the mastery of the object of the auction. Obstacles from KPKNL. With the KPKNL work area, KPKNL lacks human resources, especially auction officials who are responsible

Suggestion

- a. To the government to further optimize the form of supervision of consumer protection in auction sales and the government to encourage the role of the community and the role of non-governmental organizations to participate in the supervision of the implementation of consumer protection in auction sales, this aims to provide more legal protection for consumers and to ensure the implementation of consumer protection in sellers at auction.
- b. The implementation of the auction through the procedure of using video conference as much as possible to avoid errors starting from the stage of auction preparation, auction implementation, payment, to the delivery of goods to the owner / buyer of the new auction, so that it is expected that the implementation of auctions that are in accordance with the procedure can benefit the people who have participated in auction activities, both buyers and sellers.
- c. As well as before the auction was conducted online socialization regarding the Implementation of Execution Auction based on PMK No. 213 / PMK.06 / 2020 on The Instructions for Auction Implementation to all stakeholders. In addition, it is also expected that the public will actively study the auction process through on line by looking for sources about the mechanism of the auction process through the internet and / or asking directly to KPKNL about the auction mechanism through online so that the problems experienced by the community can be provided solutions by KPKNL as an online auction organizing institution.

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