



Auction Procedures for Collateral Goods Owned by Pegadaian Customers (Case Study at Pt Pegadaian (Persero) Branch Mengwi)

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Abstract - The implementation of a sustainable economy will require a lot of funds, and credit institutions such as PT. Pegadaian (Persero) Mengwi Branch can provide a lot of these funds. This institution mainly conducts credit based on mortgage law, which makes it easier for borrowers without creating new problems for them after they provide loans. The problem: What is the procedure for carrying out an auction for collateral at PT. Pegadaian (Persero) Mengwi Branch? And what is the responsibility of PT. Pegadaian (persero) Mengwi Branch for loss or damage to collateral? This study uses empirical research methods. The results of this study indicate that the discussion of PT. Pegadaian (persero) Mengwi Branch gives absolute rights to customers in the event of an auction for collateral items, and PT. loss when the collateral is under the supervision of PT. Pegadaian (persero) Mengwi Branch. But if PT. Pegadaian (persero) Mengwi Branch is not responsible for its obligations, then it can be subject to administrative sanctions as stated in Article 60 UUPK.

Keywords: Limited Liability Company, Responsibility, Sanctions

I. INTRODUCTION

The government established credit institutions to provide a fair measure of social welfare for all. These institutions can be classified as banking and non-banking credit institutions. Pegadaian is a credit institution managed by the government. Their main activity is making loans or credit based on pawn law. Distribution of loan money is done easily, quickly, safely, and economically so that it does not burden the people who make loans and does not create new problems for borrowers after making loans at pawnshops.

Pawnshops play an important role in providing small-scale credit in underdeveloped communities, and their interest rates are usually lower than those offered by other lenders. This makes them a valuable resource for people in this community. The aim of the pawnshop is to provide guarantees to the pawn holder that in the future the debt will be repaid from the value of the collateral [Badruzaman, \(1991\)](#).

Implementation of sustainable economic development requires a lot of money. However, many of these funding needs can be met through lending and credit activities. Investment in the economy refers to the statement that to finance business processes, a certain amount of capital is required. However, in today's economy, many investments can be made with relatively small capital. Assets that can be considered as investment vehicles include real assets and financial assets. Before investing, it is important to know which assets to choose as an investment [Adrian Sutedi, \(2011\)](#).

Real assets, such as land, houses and gold, have a form that can be seen with the naked eye, while financial assets are types of valuable assets that do not have a traditional form. They can be found in the banking world and on the Indonesian stock exchange. Some examples of financial assets include money market instruments, bonds, stocks and mutual funds. These assets have high value because they are not easily converted into other forms of currency [Astari, \(2017\)](#). Pawn is a commitment to repay a loan or credit, and this is primarily based on the trust and character of the debtor. Creditors believe that debtors will act responsibly and fulfill their obligations, which makes them believe in debtors [Satrio.J, \(1993\)](#). If the debtor defaults or is unable to penetrate an object until after a certain period of time, the pledge holder has the right to auction the item pawned and the money from the sale is used to pay off the debtor's debt, such as fees and interest. auction. The debtor usually gets more money from the auction than he owes, so he must be aware of his rights in this situation. There are several similar studies, the first of which is [Supadianti, \(2018\)](#), entitled "Implementation of mortgage collateral auctions at PT. pawnshop (persero) semarapura branch" where the results of the research are in the form of regulations that are used as the basis for carrying out auctions of mortgage collateral by PT. Pegadaian (Persero) Semarang Branch and the process of carrying out the auction of mortgage collateral by PT. Pegadaian (Persero) Semarang Branch. The second is [Galang azmi, \(2016\)](#) entitled "Implementation of auctions of mortgage collateral at PT. pawnshop (persero) Pontianak branch" where the results of his research show that the implementation of the pawn collateral auction at PT. Pegadaian (Persero) Pontianak branch in practice is still not in accordance with the Pawnshop Operational Guidelines, this is evident from the absence of notification to the pawnbroker that the collateral will be auctioned off because it is past due. Where the purpose of this research is to find out the procedure for carrying out the auction and accountability for lost auction items.

From the background above, it can be concluded through the formulation of the problem including: What are the procedures for carrying out auctions for collateral at PT. Pawnshop (Persero) Mengwi Branch? and What is the responsibility of PT. Pegadaian (persero) Mengwi Branch for loss or damage to collateral?

II. METHOD

"The type of research used in empirical legal research is a type of legal research that looks at law in its true sense, by looking at how it works in society.

The data source that will be used for this research project is from literature studies, especially in the form of paraphrases. The researcher will review several articles to gain an understanding of the topic, and then use this information to make research: Primary legal materials are legal materials that are used as the basis for preparing a thesis from literature and secondary legal materials, including law journals.

"The legal material collection technique used in this writing includes interviews and is also supported by sources that are carried out through the observation process, this method makes direct observations by paying attention and observing everything related to the required data. The analysis used is a qualitative technique and a descriptive technique.

III. RESULT AND DISCUSSION

Procedure for Carrying Out Auctions for Guaranteed Goods at PT. Pegadaian (PERSERO) Mengwi Branch

An auction is a sale where items are offered for sale at a set price, and the highest bidder takes the item. This type of sale comes from the Latin word *auctio* which means a gradual increase in price. In Indonesia, auction laws have existed since 1908, and these provisions are still in effect today. In this case there is an emphasis on responsibility. There are two main concepts regarding the term "responsibility" which is public in nature and relates to obligations in office. The first concept is that responsibility is something that is held accountable. The

second concept is that responsibility is something someone does voluntarily. "responsibility", while those with a private character with respect to rights use the term "liability" or "responsibility" [Atmadja, I.D.G, Budiarta, \(2018\)](#).

During the auction, various items are sold. Goods that are traded in the auction itself are goods that have been equipped with documentation or proof of ownership of an item, both voluntary non-execution type auctions and execution of these items must be completed with complete documents before entering the auction stage. Items that are often auctioned alone are usually houses, land, or items that are not prohibited.

The term 'guarantee' is a translation of the term 'zekerheid' or 'cautie', which means the debtor's ability to fulfill or pay off his debt to the creditor, which is done by holding certain objects of economic value as collateral for the loan. or debts received by debtors against their creditors [Abdul Rasyid Saliman, \(2008\)](#). Collateral is something that debtors risk losing if they don't pay their debts. Creditors can demand this collateral from the debtor in the form of money or property. This includes things such as property, stock, or other items of value that the debtor owns. If the debtor cannot provide enough of this collateral, their lender may decide to seize the debtor's property. This can damage the debtor's finances and their relationship with creditors. Creditors can also take legal action against debtors to collect their debts. This can damage the reputation of the debtor and cause significant financial losses.

Goods that can be used are goods that can be traded and have value. The types of collateral are as follows:

Goods received as collateral at PT. Pegadaian (persero) Mengwi Branch.

Fabrics, such as: clothing materials, silk fabrics, rugs / patchwork. Jewelry items (metals and gems), such as: gold/silver/platinum, diamonds, precious stones. Vehicles, such as: cars, motorbikes, bicycles, buses, trucks. Household goods, such as: household furniture, electronic goods, pottery.

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Items that cannot be used as collateral at PT. Pegadaian (Persero) Mengwi Branch.

Government property, such as: firearms, sharp weapons, uniforms, ABRI and other government equipment. Perishable goods, such as: food and drink, drugs, tobacco. Dangerous and flammable goods, such as: matches, fireworks, firecrackers/munitions, gasoline, kerosene, diesel, gas, cooking oil. Items whose value is difficult to assess, such as: historical relics, history. Items that are prohibited for circulation, such as: marijuana, opium, madat, heroin and the like. Other items, such as: Renting items, borrowing money, and depositing items temporarily are all ways to acquire unpaid items. There are also problematic items, livestock and animals.

The operational guidelines for the Perum Pegadaian branch office as stated in the Decree of the Directors Opp.2/67/5 are also enforced through a Circular Letter of the Directors of PT. Pawnshop No.48/Op1.00211/2003. PT. Pegadaian as a creditor has the authority to carry out direct execution of the object that is collateral if the debtor defaults, namely the object pawned is not taken until the specified time period, namely at the auction.

Customers have the right to know everything about the products and services offered by PT. Pegadaian (PERSERO) Mengwi Branch, and their obligations in general. PT. Pegadaian (PERSERO) Mengwi Branch also has the right to refuse payment, if the terms of the agreement are not met. In the event of default, PT. Pegadaian (PERSERO) Mengwi Branch has the right to auction off customer collateral. This legal protection is indirectly implemented through the use of the precautionary principle.

If the customer does not pay the loan on the due date, the collateral (the item they mortgaged) will be auctioned off. The auction is being held because the customer cannot extend or redeem any more items. It occurs after the due date (120 days or 4 months) and from the credit date. At PT. Pegadaian (Persero) Mengwi Branch:

Auction process fee : maximum 5.5%, seller auction fee : 1% auction revenue, buyer fee : 1% auction revenue

After deducting the auction fee from the proceeds from the sale, the Pegadaian's rights are loan money and capital rental money, while the remaining auction proceeds (the remaining money after the auction fee is paid) remains the right of the customer. The auction fee is collected directly by the Pawnshop and then handed over to the social services.

"There are two types of mortgage guarantee agreements: those that are *accessoir* in nature and are always related to the main agreement, and those that are not *accessoir* in nature. The main agreement in the pawn agreement is a loan contract or a loan contract [Jauhari, \(2003\)](#).

Responsibility of Pt. Pegadaian (Persero) Mengwi Branch for Loss or Damage to Collateral Items

The Big Indonesian Dictionary defines rights as something that is right, such as property, possession, and authority. In 2013, the Financial Services Authority (OJK) issued Financial Services Authority Regulation Number 1 which protects consumers in the financial services sector. important factors to consider in deciding whether or not to file a mortgage claim [Usman, \(2009\)](#).

If the customer and PT. Pegadaian (persero) Mengwi Branch does not fulfill its obligations based on the pawn agreement, so it can be said that it has defaulted and violated the rules. This is because they were negligent and failed to carry out the agreement properly, so it is now the responsibility of the parties involved.

To be held accountable for one's actions, one must be held accountable for those actions. This includes the consequences of one's actions, such as ethics and morals, and the freedom one has to carry out those actions [Andi Hamzah, \(2005\)](#).

Responsibility is the duty to shoulder all the burden and if something goes wrong, the onus is on you to take action. The principle of responsibility is an important part of consumer protection law. In cases of consumer rights violations, it is important to analyze carefully who is responsible and what their responsibilities are. Several sources of formal law, such as statutory regulations and standard agreements in the field of civil law, often limit the liability of violators of consumer rights [Kristiyanti, \(2011\)](#).

According to the theory of risk transfer, when a person is aware of a threat of danger to his property or life, he will suffer loss or loss of life or physical disability. Economically, material loss or loss of life or physical disability will affect the life journey of a person or his heirs. To reduce or eliminate the risk burden, the insured tries to find ways to transfer the risk to another party who is willing to bear it. The insured makes a replacement with the aim of transferring the risk with the threat of his property or life, by paying an amount of premium to the company (insurer). Since then, the risk has been transferred to the insurance company.

If an event causes a loss, the insurance company will pay a proportionate amount of money to the insured. This is to help the insured compensate for the lost value of what he or she owns. In practice, this means that some losses are less than the total loss, and the insured takes out insurance to make up for this. The amount of compensation paid to the insured who suffers a loss is insignificant compared to the amount of premiums collected from several insureds.

The legal consequences of damage or loss of mortgaged objects depend on the terms of the agreement between the mortgagee and the mortgagee. If the agreement contains a mortgage guarantee, then the pledge holder can have certain rights and obligations in relation to the mortgage giver and creditor for the mortgaged object.

The pawnshop is responsible for repairing the pawn item, and will replace the pawn item in accordance with the estimated value of x125%. If the customer complains about damage or loss of collateral, the customer is required to bring a KTP or original identity card, bring proof of credit (SBK) in his own name, fill out a compensation claim form, attach proof of repayment of loan debt (UP)) and rental capital if the item has been paid off and collateral items are asked for compensation. Customers with active credit status will be given the opportunity to claim

collateral damage. Problems resulting from the responsibility of PT. Pegadaian (Persero) Mengwi Branch is damaged and loses collateral. Based on research conducted by the author at PT. Pegadaian (Persero) Mengwi Branch, collateral belonging to a customer in the form of a gold necklace and a damaged motorbike was found.

Pegadaian at the Mengwi Pawnshop Branch have fulfilled their responsibilities in replacing collateral for customers who are damaged or lost. Including replacing 125% of the estimated collateral value for customers who are damaged or lost in accordance with the provisions that the Pegadaian will give the customer 125% of the value of the lost or damaged goods for the collateral, as long as there is a clause that limits the pawnshop's liability for such loss or damage. This is because pawn shops are seen as unfairly giving customers less than they should, which can discourage customers from returning.

Pegadaian must determine the market value of the compensation adjusted to the market price at the time the agreement was made. This is to ensure that the amount of compensation paid is the same as when the collateral was mortgaged, because this information was not conveyed to customers when the collateral was mortgaged. This is done so as not to harm the customer.

CONCLUSIONS AND SUGGESTIONS

Conclusions

The procedure for carrying out an auction for collateral items at PT. Pegadaian (persero) Mengwi Branch uses the Legal Basis which is used as a guide, namely the Civil Code Articles 1155 and 1156, Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020 Concerning Instructions for Implementation of Auctions Article 1 paragraph (1)), "Financial Services Authority Regulation (POJK) Number 31 of 2016 concerning Pawn Business and Regulation of the Directors of PT. Pegadaian (persero) Number 5 of 2014 concerning Standard Operating Procedures for Non-Online KCA Pawn. The implementation of the auction for pawn collateral items at PT. and this bid was called twice, then asked the public if there was still a higher bid. If there are no further bids, then the winner will be determined, preceded by the words "three times". And, 2. The responsibility of PT. Pegadaian (persero) Mengwi Branch for loss and damage to "collateral items" is as follows: a. Collateral lost; PT. Pegadaian (persero) Mengwi Branch is fully responsible for the lost collateral items according to the provisions in force at PT. Pegadaian (persero) Mengwi Branch, namely the value of the collateral items. b. Damaged warranty items; For collateral that is damaged, the PT. Pegadaian (persero) Mengwi Branch will repair damaged collateral or replace the customer's collateral so that it matches the customer's collateral before it is damaged, and even then it has been through communication with the customer concerned regarding the damage to the collateral.

Suggestions

In writing this study the authors provide several suggestions including: For the Government and Law Enforcement Officials, the Government and Law Enforcement Officials are expected to be able to help the community, especially customers who use pawnshop services whose collateral will be auctioned off, if it is not appropriate or without notification in order to get legal protection for Collateral items auctioned off in order to avoid unilateral auctions that are detrimental to customers. For society. The community is expected to be wiser in terms of using financial services such as pawnshops, the public must go deeper and understand what products are provided at pawnshops so that misunderstandings do not occur which can later lead to losses. The need for accuracy in using goods as collateral, the public must know and understand the terms, procedures, procedures and consequences of using goods as collateral. The customer should carry out obligations according to the rules and agreements with the pawnshop by paying the loan until it is repaid so that the collateral is not auctioned off. For PT. Pegadaian (PERSERO) Mengwi Branch, "In carrying out an auction for collateral items at PT. PT. Pegadaian (persero) Mengwi Branch should approach customers until the loan is repaid, so that the goods used as collateral do not end up being auctioned off by PT. Pegadaian (persero) Mengwi Branch."

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