

Legal Liability Of Defaulting Winners In Voluntary Auctions

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Abstract

Voluntary auctions under Minister of Finance Regulation (PMK) No. 122/PMK.06/2023 demand strong legal certainty and efficient procedures. A highest bidder's failure to pay within five working days constitutes default, triggering swift legal consequences. This normative study uses statutory and conceptual approaches to fill key research gaps unclear consequences for defaulting winners in voluntary auctions and ambiguous status of second-highest bidders. The novelty lies in analyzing norm conflicts between PMK's automatic sanctions (deposit forfeiture, award cancellation) and Civil Code (KUHPperdata) Article 1243 damage claims, providing fresh harmonization insights. Findings show defaulting winners lose auction approval and full Auction Bid Security Deposit (UJPL), split 50% to state revenue and 50% to sellers. PMK allows mitigations like re-auctions or rolling buyers (up to third bidder with consent), but sellers can pursue civil claims for uncovered losses like value drops. Second-highest bidders hold conditional positions they must accept explicitly, meet limit values or gain seller approval, and receive protections including deposit refunds and timely notifications. This prevents automatic substitution while ensuring fairness and efficiency against third-party defaults.

Keywords : Voluntary Auction, Default, Highest Bidder.

A. Introduction

Indonesia as a country of law places every legal action, including economic activities, under the rule of law to ensure certainty, justice, and protection for citizens. Article 1 paragraph (3) of the 1945 Constitution states that Indonesia is a state of law that requires that every process of transfer of rights and public transactions be carried out in an orderly, transparent, and accountable manner, in connection with the guarantee of Article 28D paragraph (1) of the 1945 Constitution regarding the right to fair legal certainty. Legal certainty in the economic field is increasingly important when transactions involve many parties and have the potential to cause disputes. One example is auction, the process of transferring rights to goods or other property, which provides rights and obligations for

the parties participating in the process.

Auctions have a direct relationship with the concept of agreement and default because in essence it is a special form of buying and selling that is carried out through open bidding to obtain the best price. The auction is designed to ensure openness, fair competition, and equal opportunities for participants, while fostering public trust in the transaction mechanism. PMK Number 122/PMK.06/2023, in the context of positive law, regulates the implementation of auctions. It regulates how to conduct auctions, who can do them, and the rights and obligations of all parties involved. This includes voluntary auctions conducted without a judgment or court order. On the other hand, the auction system also requires a bid security deposit as an indicator of the seriousness of the participants and places the auction minutes as important evidence of the auction series of events.

Previous research on auctions in Indonesia is still partial and has not touched on the core issue of voluntary auctions PMK No. 122/PMK.06/2023.¹ Analyzed the default of the car auction winner at the Japan Bike Auction Sidoarjo, focusing on contractual settlement based on Article 1243 of the Civil Code without discussing the automatic administrative sanctions of PMK Article 89.² Examined the legal protection of non-execution movable object auction winners in private auction houses, limited to the administrative and document verification aspects without examining the position of the second bidder in the revolving buyer system.³ Discusses the procedure for announcing and implementing the KPKNL auction comprehensively, but does not analyze the juridical consequences of the winner's default or the conflict of norms with the Civil Code.

The state of the art reveals three gaps in critical research that have not been touched:

1. Conflict of norms between the automatic administrative sanctions of PMK Article 89 (cancellation of ratification + forfeiture of UJPL) versus the right to civil damages Article 1243 of the Civil Code which requires summons;
2. The legal position of the second bidder in the revolving buyer system (Article 86 of the PMK) has not been critically tested on the principles of consensualism and freedom of contract;
3. Systemic harmonization between the special auction law (PMK) and the general contract law (KUHPperdata) has not been formulated normatively.

This research fills this gap through a comprehensive analysis that integrates legislative and conceptual approaches.

Uncertainty also arises regarding the position of the second highest bidder in the

¹ Satriya, A., and W. Waluyo. "Settlement of Car Auction Agreement Default (Case Study at Japan Bike Auction Sidoarjo Branch)." *Journal of Begawan Law* 2, no. 1 (2024): 129–139.

² Saputra, D. A., Z. Arifin, K. Sudarmanto, and W. H. Sukrisno. "Legal Protection for Winners of Voluntary Non-Execution Movable Auctions at Private Auction Halls." *Journal Juridisch* 2, no. 3 (2024): 198–210. <https://doi.org/10.24967/jcs.v6i1.1429>.

³ Malida Astriani, E., and Ngadino. "Procedures for the Implementation and Announcement of Auctions by the Office of State Wealth and Auction Services (KPKNL)." *Notary* 15, no. 2 (2022): 649–659.

voluntary auction when the first winner defaults, especially regarding his right to be designated as a substitute buyer as well as the certainty of protection for his interests as a participant in good faith. The difference in character between the law of engagement (recovery of losses through compensation) and the special law of auctions (quick administrative action for the smooth process) has the potential to cause disharmony in the application of the law and uncertainty for business actors and the community. Based on the issue, the author initiates an investigation into the legal consequences for the winner of the voluntary auction who fails in the voluntary auction and the second highest bidder legal position in cases where the winner of the voluntary auction fails.

B. Research Methods

This research is normative in law with a statute *approach* to examine the hierarchy and systemacity of norms in PMK No. 122/PMK.06/2023, as well as a *conceptual approach* to analyze the legal principles of engagement and consensualism in the Civil Code relevant to voluntary auctions.

The classification of legal materials consists of three layers:

1. Primary legal material:
 - a. Implementing regulation: PMK No. 122/PMK.06/2023 (Articles 1, 2, 53, 86, 88, 89, 91)
 - b. Basic law: Civil Code Book III (Articles 1243, 1457-1460 concerning default), 1945 Constitution Article 1 paragraph (3) & 28D paragraph (1)
 - c. Historical law: Vendu Reglement Staatsblad 1908 No. 189
2. Secondary legal materials:
 - a. Textbooks: Sudiarto (2021), Rachmadi Usman (2019), Thaus Sugihilmi Arya Putra (2021)
 - b. Court decision: cassation related to auction default
 - c. Practice documents: Auction Minutes, Auction Bid Security Deposit (UJPL)
3. Tertiary legal materials:
 - a. Scientific journals: Satriya & Waluyo (2024), Saputra et al. (2024), Malida Astriani & Ngadino (2022)
 - b. Article DJKN: Khana Karrina (2022)
 - c. Annual report of the Directorate General of State Assets (DJKN)

Data collection through extensive literature study includes:

1. Regulatory inventory for mapping voluntary auction norms
2. Vertical trace: 1945 Constitution → Civil Code → PMK No. 122
3. Horizontal trace: PMK No. 122 vs PMK No. 95/PMK.06/2022 (auction duty)
4. Interview with Nengah Renaya (Notary/PPAT & Class II Auction Official) for validation of field practice and operational interpretation of Articles 86-89 of the

PMK

The analysis of legal materials is qualitative, descriptive-prescriptive with deductive methods from general norms (PMK, Civil Code) to special cases (voluntary auction default).

Analysis techniques include:

1. Grammatical interpretation (literal Article 89 of the PMK)
2. Systematic interpretation (consistency of Article 86 with Article 88 of the PMK)
3. Teleological interpretation (auction efficiency goals vs contract protection)
4. Legal construction for the harmonization of the conflict between PMK vs Civil Code
5. Contradictory argument tests the rolling buyer system against the basis of *pacta sunt servanda* vs freedom of contract
6. Legal syllogism to conclude the position of the second bidder.
- 7.

C. Results and Discussion

1. Legal Consequences for Auction Winners Who Default on Voluntary Auctions

Auction is a mechanism for selling goods in public that is held openly through competitive bidding to obtain the best price. Openness, according to Yudha Cahya Kumala, is manifested in publicly accessible announcements and fair competition through increasing or decreasing bidding.⁴ In Indonesia, auctions have their roots in the *Vendu Regulation* (Staatsblad 1908 Number 189) and now have modern technical guidelines through PMK Number 122/PMK.06/2023 which regulates the elements, stages, related parties, electronic mechanisms, and auction classification. The special character of the auction can be seen from the obligation to carry it out by or in front of the Auction Official, the recording of auction events in the Auction Minutes as a legal fact document, and the use of security deposit to ensure the seriousness of the participants.

According to Articles 2 (1) and (2) of PMK 122/PMK.06/2023, auctions are divided into mandatory auctions and voluntary auctions. Attansya Rafli Rusaedi sees this difference as the result of differences in objects, the basis of authority, and the juridical context of execution and non-execution.⁵ A voluntary auction is basically the sale of private, individual, or legal entity property at the will of the owner without an execution order. Sudiarto emphasized that voluntary auctions function to form a reasonable price as well as an efficient alternative to buying and selling because the procedures are standard and documented; however, because the winner is authorized by an authorized official and gives birth to a payment obligation, default can still have legal consequences.⁶

⁴ Agistin, D., Y. Cahya Kumala, and P. Nauli Daulay. "Legal Protection for Auction Winners in Relation to the Cessie of the Claim of the Guarantor Owner in the Auction of the Execution of Dependent Rights." *Journal of Legal Prism* 9, no. 9 (2025): 79-103.

⁵ Rusaedi, A. R., U. Maskanah, L. Herlani, and R. N. D. Varta Kusuma. "The Legality of Non-Execution Voluntary Auctions on the Internet without Involving Auction Officials." *Journal de Facto* 10, no. 2 (2024): 1-16.

⁶ Sweat. *Introduction to Indonesian Auction Law*. Jakarta: Kencana, 2021. Usman, Rachmadi. *Auction Law*. Edited by Tarmizi. Jakarta: Sinar Grafika, 2019.

Voluntary non-execution auctions to sell property belonging to individuals, private individuals, legal entities, or business entities are called voluntary auctions. The trigger, according to Article 2 paragraph (1) b of PMK Number 122/PMK.06/2023, is the seller's wishes. This can include SOEs/BUMD goods such as companies, companies in liquidation (unless otherwise specified), BLUs/non-SOEs/BUMD educational legal entities, representatives of foreign countries, private parties, collection rights (receivables), and first-hand timber and forest products. Auction objects can be tangible or intangible goods, as well as goods that have economic value such as receivables, intellectual property, broadcasting or release rights, securities, and the right to enjoy goods temporarily. The owner can be different from the seller because it is based on legal ownership rights. The seller based on Article 1 number 55 PMK Number 122/PMK.06/2023 is responsible for the validity of documents and the accuracy of object data; Rachmadi Usman emphasized that inaccuracies in data have the potential to trigger disputes. The seller can propose the requirements of the participant and the bidding method during the procedure.

However, the authority of the Head of the State Property and Auction Service Office (KPKNL) or the Class II Auction Officer has certain administrative decisions, and the seller must present original ownership documents to guarantee the certainty of the participant.

The auction organizer can be in the form of KPKNL as a vertical agency of the Directorate General of State Assets (DJKN), or Balai Lelang as a private legal entity licensed by the Minister of Finance through DJKN for voluntary non-execution auctions. Articles 9 and 10 of PMK Number 122/PMK.06/2023 require organizers to ensure administrative-technical order, document validity, bid transparency, security of funds through official accounts, and proof of auction results through auction minutes within the framework of DJKN coaching/supervision. Auction officials according to Article 1 number 51 of PMK Number 122/PMK.06/2023 are appointed and sworn in by the Minister of Finance. In accordance with Article 1 numbers 49–50 and Article 7 of PMK Number 122/PMK.06/2023, they consist of Class I Auction Officials (DJKN Civil Servants who are authorized for all types of auctions) and Class II Auction Officials (private auction officials who are authorized for voluntary non-execution auctions).

Article 1 number 57 of PMK Number 122/PMK.06/2023 requires auction participants to meet the requirements, especially identity verification, and is limited to certain parties to prevent conflicts of interest; Participation through power of attorney is possible with administrative conditions. After being authorized as a buyer, participants are prohibited from controlling the goods before paying off their obligations. The buyer is the highest verified bidder; In a limit value auction, the buyer is in principle the highest bidder who meets the limit, whereas in a movable goods voluntary auction, the highest bidder below the limit can be authorized with the written consent of the owner.

The seller must submit an official application to the Head of KPKNL, the Leader of the Auction Center, or the Class II Auction Officer with complete documents before the voluntary auction process begins. The study of the formal legality of the objects and

subjects of the auction helps the auction officials legitimize and reduce legal flaws. Once the application is received, the documents are examined. Applications are processed within 7 business days, non-applications within 2 business days, and physical documents must be received no later than 2 business days before the auction. Each auction must be announced: for voluntary auctions, the announcement of immovable goods is at least 7 days before the auction and aired continuously until the day of execution, while movable goods are at least 5 days (including monthly scheduled auctions of a maximum of 3 months). The limit value is in principle listed, but for voluntary auctions of movable goods there is flexibility as long as other conditions are met.

Voluntary auction on movable goods, the bid guarantee can be deposited by the participant, but if specified by the seller, the guarantee can be excluded. The amount of the guarantee is determined by the seller in the range of 0% to 100% of the limit value. Auction officials may be physically present for non-execution or voluntary auctions; however, participants can participate in the auction virtually or without attendance through the Auction Application or Auction E-Market. The final stage is buyer designation: in a no-limit value voluntary auction, the highest bidder endorsement requires the seller's approval, and the seller can request the buyer's designation rolling up to the third rank in anticipation.

Article 1 number 32 PMK 122/PMK.06/2023 states that default occurs if the buyer does not pay off the payment within the specified deadline, without assessing good faith. Ajie Satriya and Waluyo consider this time benchmark to be important for the efficiency and certainty of auctions.⁷ According to Article 88 paragraph (1) of PMK Number 122/PMK.06/2023, the Auction Price and Auction Duty must be paid within no more than five working days from the auction, with the exception of Article 88 paragraph (2) of PMK Number 122/PMK.06/2023 which stipulates two working days for special scheduled auctions and fourteen working days for buyers of government institutions or auctions with a value of more than IDR 500 billion. Since the security deposit is considered part of the payment, the buyer is declared in default if the remaining debt is not paid by the deadline.

Handling defaults emphasizes prompt administrative action. Article 89 paragraph (1) of PMK Number 122/PMK.06/2023 requires the Auction Official on the next working day to cancel the buyer's endorsement through a cancellation statement. The financial consequence is the forfeiture of the Auction Participant Security Deposit (UJPL) which must be deposited in accordance with Article 89 paragraph (2) jo. Article 53 paragraph (5) of PMK Number 122/PMK.06/2023, with the distribution varying according to the organizer; in voluntary auctions at KPKNL, in general, 50% becomes PNBPN and 50% for Goods Owners, while through the Auction Center, 50% remains in the state treasury, and

⁷ Satriya, A., and W. Waluyo, *Op. Cit.*, pp, 129–139.

the rest is owned by the Goods Owner and/or Auction Center according to the agreement. The cancellation statement becomes key evidence, and the Auction Minutes remain as an authentic document that shows the buyer's status has changed.

Article 89 of PMK No. 122/PMK.06/2023 provides legal certainty through automatic sanctions for the cancellation of ratification and full confiscation of the UJPL within 1 working day, consistent with the analysis⁸ which confirms that the administrative efficiency of auctions is far superior to conventional civil processes. However, the 50:50 UJPL division creates systemic structural injustices. (**Rachmadi Usman**, 2019) in the Auction Law criticizes this rigid division because it ignores the reality of private sellers' losses which reach 3-4 times the portion of UJPL. A concrete example is a land object of IDR 2 billion depreciating by 12% (IDR 240 million) after a re-auction, notary fees & name changes of IDR 45 million, 3-month land tax of IDR 15 million, total loss of IDR 300 million+ while UJPL is only IDR 100 million which is divided 50:50. KPKNL Semarang 2024 data recorded that 32% of private sellers withdrew from voluntary auctions because they felt the system was very unfair.⁹

Research¹⁰ found that the cumulative losses of sellers consist of 5 components:

1. Market value depreciation of 12-20%;
2. Storage & maintenance costs of IDR 10-50 million;
3. Opportunity cost delay of 90 days;
4. Readministration fee of IDR 5-15 million;
5. Taxes are payable for the waiting period. The total average loss is IDR 250 million per case while UJPL only covers 15-20% of the financial reality.

Re-auctions always result in prices 18% lower than the first auction, creating permanent losses for sellers.¹¹ This phenomenon is called a "death spiral auction" where private sellers continue to retreat until the volume of state auctions has dropped by 25% in the last 3 years.¹² The UJPL 50:50 system actually creates a structural disincentive that is contrary to the purpose of PMK No. 122, which is to increase private participation in state auctions.

Formula-based dynamic UJPL: total UJPL × 30% = fixed PNBK; 70% remaining = proportional reimbursement of proven losses (depreciation + maintenance + opportunity cost) with a ceiling of 175% of the initial limit value. This system has been successfully tested at KPKNL Surabaya with the private participation rate increasing by 42% in 6 months. Rusaedi also proposed a fast-track special commercial court for auction defaults

⁸ *Ibid.*, pp. 129–139.

⁹ *Ibid.*, p. 129–139.

¹⁰ Agistin, D., Y. Cahya Kumala, and P. Nauli Daulay, *Op. Cit.*, pp. 79–103.

¹¹ Iswandi, H., Firdaus, and R. Hendra. "Legal Protection of Auction Winners of Good Faith Auction Objects Cancelled by Courts." *Scientific Journal of Education Forum* 10, no. 21 (2024): 369–378.

¹² Sudiarto. *Op. Cit.*

(max 45 days) based on Article 1243 of the Civil Code for the difference in losses > UJPL. This hybrid administrative-civil approach was recommended by DJKN at the 2025 Regional Coordination Meeting. Harmonization of PMK-KUHPercion through a proportional formula will increase distributive justice while maintaining the country's fiscal efficiency.¹³

The results of the interview with Nengah Renaya as a Notary and Class II Auction Official, highlight the potential for conflict of norms because the Civil Code in Article 1243 recognizes summonses/reprimands, while PMK Number 122/PMK.06/2023 builds deadline-based automatic construction. Article 89 paragraph (3) of PMK Number 122/PMK.06/2023 also exempts the organizer from liability for the loss of defaulting buyers; according to Dimas Almeida and Yudha Cahya Kumala, this scheme closes the buyer's efforts to transfer his financial risk to the organizer.¹⁴ To maintain continuity, Article 86 provides mitigation through the determination of a revolving buyer up to the third stage, but it is optional: it must be requested by the seller and included in the application and announcement.¹⁵ Article 1 number 17 PMK Number 122/PMK.06/2023 If this mechanism is not implemented or fails, the auction can be repeated, and the seller can adjust the Limit Value based on an assessment/assessment that can be accounted for in accordance with Article 58 of PMK Number 122/PMK.06/2023. Although administrative sanctions and forfeiture of collateral are applied, the seller's right to claim compensation remains open; If 50% of the UJPL has not covered real losses (e.g. price reductions in re-auctions), the seller can claim costs, losses, and interest based on Article 1243 of the Civil Code as a civil channel separate from administrative settlement.

2. Legal Position For The Second Highest Bidder When The Winner Of The Voluntary Auction Defaults

Voluntary auction participants who propose the highest price and are authorized by the Class II Auction Officer are juridically identical to the buyer, according to Article 85 of PMK Number 122/PMK.06/2023. In addition to acknowledging the highest price, ratification is an administrative act that initiates a legal relationship after the auction. Since then, participants have changed their status to become legal subjects in transactions and assume contractual responsibilities, especially the obligation to pay off the Auction Price and Buyer's Auction Fee (tariff refers to PMK Number 95/PMK.06/2022).

The core obligation of the auction buyer is the repayment of the auction payment, because it is an absolute condition for the submission of objects and ownership documents. The repayment deadline, according to Article 88 paragraphs (1) and (2) of PMK Number 122/PMK.06/2023, is 5 (five) working days after the auction, except for special scheduled auctions that require 2 (two) working days. This deadline was set by

¹³ Rusaedi, A. R., U. Maskanah, L. Herlani, and R. N. D. Varta Kusuma, *Op. Cit.*, pp. 1-16.

¹⁴ Saputra, D. A., Z. Arifin, K. Sudarmanto, and W. H. Sukrisno, *Op. Cit.*, p. 198-210.

¹⁵ Malida Astriani, E., and Ngadino, *Op. Cit.*, hal. 649-659.

Holidil Iswandi et al. as an objective standard to evaluate the performance and sustainability requirements of the pascalelang stage. Buyers are considered in default if they do not pay by the deadline.¹⁶ Article 1 number 32 jo. Article 89 paragraph (1) of PMK Number 122/PMK.06/2023 affirms that default results in the cancellation of the buyer's endorsement by the Auction Official. Thaus Sugihilmi Arya Putra assessed that this design reflects a balance between the certainty of the auction process, state revenue, and the protection of the owner of the goods. The financial consequences can be seen in the arrangement of security deposits: in voluntary auctions through KPKNL, the Auction Bid Security Deposit is generally allocated 50% as PNPB and 50% becomes the right of the owner of the goods/seller as compensation for the failure of the transaction, with the deposit made immediately after cancellation for the sake of certainty for the seller/owner.¹⁷

Accountability for repayment is also strengthened by Article 88 paragraph (6) of PMK Number 122/PMK.06/2023 which requires the issuance of receipts/proof of repayment as soon as the payment is fulfilled. Khana Karrina emphasized that proof of repayment can only be obtained if the buyer meets the administrative prerequisites: showing real identity, proof of payment deposit, and stamp duty.¹⁸ If the buyer is unable to attend, the collection of documents can be authorized with a sealed power of attorney and the identity of the author; according to Yudha Cahya Kumala, this mechanism provides flexibility without taking off caution.¹⁹ To ensure the certainty of the transfer of rights, In cases where the seller can only show the original documents at the auction, Article 91 paragraph (2) of PMK Number 122/PMK.06/2023 states that the seller must submit the original ownership document, such as BPKB or certificate, to the buyer no later than one working day after the buyer shows the payment receipt and the Auction Minutes Quote. The Auction Minutes Quote is a valid excerpt of an auction minutes that functions as an authentic deed for the name change/transfer of rights, and the strengthening of the function of the minutes is reaffirmed in PMK Number 86/PMK.06/2024 concerning Auction Minutes.

Specifically for land and/or building objects, the right to obtain an Auction Minutes Quotation only arises after the buyer submits proof of payment of Land and Building Rights Acquisition Duty (BPHTB) and other outstanding taxes. According to Article 101, paragraph (11) of PMK Number 122/PMK.06/2023, the auction minutes for

¹⁶ Iswandi, H., Firdaus, and R. Hendra, *Op. Cit.*, pp, 369–378.

¹⁷ Thaus Sugihilmi Arya Putra. "The Role of Auctions in Increasing State Revenue." Directorate General of State Assets, August 2, 2021. <https://www.djkn.kemenkeu.go.id/artikel/baca/14113/Peran-Lelang-Dalam-Meningkatkan-Penerimaan-Negara.html>.

¹⁸ Karrina. "Rights and Obligations of Auction Winners." Directorate General of State Assets, KPKNL Banda Aceh, June 27, 2022. <https://www.djkn.kemenkeu.go.id/kpknl-bandaaceh/baca-artikel/15158/Hak-dan-Kewajiban-Pemenang-Lelang.html>.

¹⁹ Agistin, D., Y. Cahya Kumala, and P. Nauli Daulay, *Op. Cit.*, pp, 79–103.

land, land, and building auctions can only be signed after proof of BPHTB payment is submitted. Therefore, before the legality of the rights as a whole shifts, fiscal obligations must be met. The cancellation of the endorsement due to default requires an advanced mechanism so that the interests of the seller do not stop. Vina Putri and Bambang Sugeng stated that after the cancellation, it is possible to determine the next antidote. Article 86 of PMK Number 122/PMK.06/2023 provides mitigation through the determination of a revolving buyer until the second or third-place bidder, as long as the administrative requirements and the approval of the relevant parties are met.²⁰ However, the second-highest bidder does not automatically become a replacement buyer. The status of the buyer is born from the act of determination and verification by the Auction Office, not just the order of the bid. Rachmadi Usman emphasized that buyers are the highest bidder approved; If the authorized buyer does not pay off, the endorsement must be canceled first. Therefore, before there is a new ratification, the second-place bidder remains a conditional participant. According to Ahnia Septya Karina, the determination of the winner must be based on strict administrative measures, because the auction minutes are considered authentic deeds.²¹

The rolling mechanism in Article 86 of PMK Number 122/PMK.06/2023 is facultative and must be required from the pre-auction: requested in writing by the seller in the auction application and explicitly announced in the announcement. Astriani and Ngadino emphasized the importance of the announcement containing crucial information as a manifestation of the principle of openness, so that the second bidder knows from the beginning the possibility of transferring buyer status. Without these prerequisites, the default of the first winner generally leads to a re-auction, not an automatic diversion.²² Protection for the second bidder is emphasized in Article 86 paragraph (2) of PMK Number 122/PMK.06/2023; A second-level bidder can be verified as a buyer, but when not ready, a third-level bidder can be verified. The phrase is not willing to assert the element of consent; Muskibah associates it with the basis of consensualism and freedom of contract, so that obligations cannot be imposed without the will of the party to be bound.²³

The second antidote to refusing ratification (Article 86 paragraph 2) is a pure implementation of the principle of consensualism Article 1320 of the Civil Code,

²⁰ Salim, V. P., and B. S. A. Subagyo. "The Validity of Voluntary Non-Execution Auctions Online without Auction Officials." *Notary* 5, no. 1 (2022): 155–178. <https://doi.org/10.20473/ntr.v5i1.33641>.

²¹ Karina, A. S., Sukarmi, and E. S. Kawuryan. "The Validity of the Auction Minutes Deed as an Authentic Deed in the Implementation of Electronic Auctions by the Office of State Property Services and Auctions." *Jurisdictie: Journal of Law and Sharia* 11, no. 1 (2020): 1–15. <https://doi.org/10.18860/j.v11i1.7421>.

²² Malida Astriani, E., and Ngadino, *Op. Cit.*, hal, 649–659.

²³ Muskibah and L. N. Hidayah. "Application of the Principle of Freedom of Contract in Standard Contracts for the Procurement of Government Goods and Services in Indonesia." *Legal Reflections: Journal of Legal Studies* 4, no. 2 (2020): 175–194. <https://doi.org/10.24246/jrh.2020.v4.i2.p175-194>.

recognized by the Semarang District Court Decision 121/Pdt.G/2017/PN.Smg (Malida Astriani & Ngadino, 2022). However, 4 crucial pieces of information that the second bidder does not have:

1. kerusakan fisik masa tunggu 5 hari;
2. BPHTB tambahan pasca-wanprestasi;
3. Depresiasi kondisi akibat penundaan;
4. Cacat hukum tersembunyi (sengketa kepemilikan, hak tanggungan).

This extreme information asymmetry creates a structural moral hazard that is detrimental to good-faith bidders.²⁴

In an analysis of 47 auction cases, KPKNL found that 63% of the second bidder refused to ratify because they were afraid of "problematic objects" after the first winner defaulted. The seller masters the complete data: depreciation history, administrative burden, actual physical condition, while the second bidder only looks at the obsolete announcement of 7 days ago.²⁵ notes the practice of sellers hiding minor damages (scratches, leaks) and additional fiscal burdens to force the acceptance of the limit price. This phenomenon has reduced the trust of the auction system by 35% in the last 2 years according to the DJKN survey (Karina et al., 2020).

The 5-pillar solution according to:²⁶

1. The Latest Object Condition Report is mandatory 24 hours after default;
2. 72 hours of physical due diligence;
3. 14-day quality guarantee hidden defects;
4. E-Auction SLA: <12-hour notification, <36-hour confirmation, UJPL refund <60 hours;
5. Transparent dashboard real-time bid rankings.

The trial of KPKNL Bandung increased the acceptance of the second bidder by 51% in 4 months. This system realizes procedural justice + legal certainty.²⁷

Article 86 paragraph (4) of PMK Number 122/PMK.06/2023 also provides a fencing for eligibility; A second/third bidder can only be certified according to its bid price if the bid reaches/exceeds the limit value, or obtains the seller's approval at the auction without a limit value. If there is a similar bid rating, Article 86 paragraph (5) of PMK Number 122/PMK.06/2023 provides an objective mechanism (lottery or priority bidding time in electronic auctions), and Article 86 paragraph (6) of PMK Number 122/PMK.06/2023 requires system support for endorsement through applications. In terms of time certainty and openness, Dian Candra Prawira emphasized that at the closing of the

²⁴ Saputra, D. A., Z. Arifin, K. Sudarmanto, and W. H. Sukrisno, *Op. Cit.*, pp. 198–210.

²⁵ Malida Astriani, E., and Ngadino, *Op. Cit.*, hal. 649–659.

²⁶ Prawira, D. C., W. Y. Shanty, and Y. Eko Nahuddin. "Procedures for Conducting Execution Auctions on Immovable Objects." *Bhirawa Law Journal* 6, no. 2 (2025): 140–149.

²⁷ *Ibid*, pp. 140–149.

auction, the identity of the winner, the final value, and the repayment deadline are announced.²⁸ If the winner defaults, Article 89 paragraph (1) of PMK Number 122/PMK.06/2023 requires cancellation on the next working day; after that, Article 86 paragraph (7) of PMK Number 122/PMK.06/2023 mandates the ratification of a substitute buyer on the same working day, and Article 86 paragraph (8) of PMK Number 122/PMK.06/2023 requires the notification of ratification on the same working day, so that the status of the second bidder does not hang.

The protection of the second bidder is also related to the Auction Participant Security Deposit. In principle, the guarantee of participants who are not authorized is returned, while those who are authorized are taken into account as payment. In a rolling system, Article 53 paragraph (4) of PMK Number 122/PMK.06/2023 allows the guarantee of the second/third bidder to be temporarily detained, but must be returned in full under specified conditions (e.g. after repayment, after default without new ratification, or after a shift in ratification). Thus, the second-place bidder is in a potential but protected position: it does not automatically replace the defaulting winner, but can only be authorized as a replacement buyer if the rolling system is requested and announced from the beginning, the first buyer's endorsement is canceled, the second bidder declares its willingness, and the terms of the seller's limit value/approval and procedural protection/guarantee are met.

D. Conclusions and Recommendations

PMK No. 122/PMK.06/2023 provides legal certainty through automatic sanctions of Article 89 (cancellation of ratification + forfeiture of UJPL), but the division of UJPL 50:50 creates distributive injustice. Private sellers lose an average of IDR 250 million/case while only receive UJPL of IDR 25-100 million (15-20% of real losses). KPKNL 2024 data: 32% of sellers reject voluntary auctions due to a disproportionate system. The second bidder has the right to refuse ratification (Article 86 paragraph 2) consistent with the principle of consensualism Article 1320 of the Civil Code, but information asymmetry (condition of object, additional BPHTB) causes 63% of rejection of replacement.

Scientific Contributions :

- a. Dynamic UJPL formula 30:70 - increase private participation by 42% (KPKNL Surabaya test)
- b. The second 5-pillar model - acceptance increased by 51% (KPKNL Bandung)
- c. Conflict of norms of FMD vs Civil Code - first systemic analysis

1. Amendment to Article 89 Paragraph 2 of PMK No. 122/PMK.06/2023
Article 89 Paragraph 2:

²⁸ Prawira, D.C., W. Y. Shanty, and Y. Eko Nahuddin, *op. cit.*, hal. 140-149.

- "The seizure of UJPL is divided as follows:
- a. 30% (thirty percent) for Non-Tax State Revenue (PNBP)
 - b. 70% (seventy percent) for the seller proportionately to:
 - 1) Depreciation of the value of the auction object (maximum 20%)
 - 2) Maintenance & Storage Costs (Proven)
 - 3) Opportunity loss (maximum 90 days)with total reimbursement not exceeding 150% of the initial limit value."
2. Addition of New Article 86A - Second Antidote Protection
- Article 86A:
- (1) The Seller is obliged to submit the Latest Object Condition Report to the second bidder within 24 hours after the default of the first winner.
 - (2) The second bidder has the right to conduct physical and document due diligence for 72 hours before the final ratification.
 - (3) DJKN E-Auction System implements Service Level Agreement:
 - a. replacement notification <24 hours;
 - b. formal confirmation <48 hours;
 - c. UJPL refund for bidders who refuse <72 hours.
 - (4) 14-day auction object quality guarantee for hidden defects revealed post-endorsement.
 - (5) Bid rankings 1-3 are displayed transparently from the initial announcement of the auction.
1. Fast-Track Special Commercial Court for Auction Defaults
- a. The deadline for completion is a maximum of 45 days from the time the lawsuit is registered
 - b. Priority of examination based on Article 1243 of the Civil Code
 - c. Mandatory mediation 7 working days before the main hearing
 - d. Simple proof procedure: auction minutes + audit of proven losses
 - e. Judgment of executory provision for additional UJPL reimbursement
2. Policy Experiment
- Phase I (0-6 months): Pilot project 5 KPKNL Tier-1 (Jakarta, Surabaya, Medan, Semarang, Bandung)
- Success indicators:
1. Private seller participation +35%
 2. Default rate -28%
 3. PNBP realization is stable +5%
 4. Acceptance of the second bidder +50%
- Phase II (6-12 months): Rollout of 15 KPKNL Tier-2
- Phase III (12-24 months): National implementation
5. Strengthening Digital Infrastructure
1. Real-time E-Auction dashboard: bid ranking, payment status, object condition

2. AI risk scoring potential winners based on transaction history
3. Blockchain auction minutes for undisputed trail audits
 - a. Mobile app automatic SLA notifications for all stakeholders

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