



Harmonization of Authority to Make Auction Minutes by Notary and KPKNL as Auction Officer

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ABSTRACT

The purpose of this study is to examine how Notaries and KPKNL, the auction officials, prepare to create auction minutes. utilizing normative research approaches when conducting research. The authority to make auction minutes is based on Staatsblad No. 189, which was issued in 1908 about Vendu Reglement/VR (hence referred to as "VR") and is founded on the legal doctrine of *lex special derogate legi generale*. referred to as the Auction Regulations), which stipulate that the Auction Officer, not the Notary, has the right to create Auction Minutes. Article 7 of the Vendue Instructions in Indonesian refers to the Jo's Auction Instructions, even if a Notary might be nominated as a Class II Auction Official. This authority, however, is granted to the Notary in his capacity as a Class II Auction Official and not in his capacity as a Notary, per Regulation of the Minister of Finance of the Republic of Indonesia Number 213/PMK.06/2020 concerning Class II Auction Officials (hence referred to as PMK Class II Auction Officials).

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INTRODUCTION

Legally speaking, the auction is governed by the Vendu Reglement, or VR, in conjunction with the Staatsblad. 1930:85. Because auctions are intimately associated with the losing party's execution in court, this auction institution is still rarely employed in society due to unfavorable assumptions. While the auction institution itself serves as more than just a vehicle for court execution, it can also be utilized for voluntary auctions, or auctions outside of execution, which are an alternative means of selling items beyond regular sales. A public announcement of commodities offered for auction to potential auction participants at the same time serves as a purchasing and selling process known as an auction. Next, an auction is held on the scheduled day, at which

When the goods are up for auction, participants place bids against one another that are more closely aligned with the seller's or owner's targeted price. An auction sale and purchase will take place between the seller/owner of the products and the auction winner as the buyer if the price has been reached or if no other participant bids at a higher price.

We can find the meaning of auction in Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions CHAPTER 1 General Provisions Article 1 paragraph (1), "Auction is the sale of goods that is open to the public with written and/or oral price offers. which increases or decreases to reach the highest price, which is preceded by an Auction Announcement." In this regulation, Article 2 also explains that, in this case, every auction must be carried out by and/or in the presence of an Auction Officer unless otherwise determined by Law or Government Regulation.

Based on the description above, it can be said that an auction is a form of sale of goods which is carried out openly to the public with the bid price increasing or decreasing to reach the highest price, which is submitted in writing or orally, preceded by a notification about the auction or sale of goods. (Rachmadi Usman; 2016).

In UUJN Article 15 paragraph (2) letter g states that a Notary has the authority to make a Deed of Auction Minutes. This regulation provides flexibility over the Notary's authority in carrying out his/her position as a Public Official where the Notary can make a Deed of Auction Minutes.

The authority of a Notary is regulated in the UUJN in Article 15 paragraph (2) letter g regarding Notaries having the authority to make Auction Minutes Deeds, so the role of the Notary in making auction Minutes deeds is very possible to carry out this authority as a public official to provide services according to the regulations that have been regulated in UUJN. In this case, the notary can carry

out the obligations of a Class II Auction Officer without being appointed by the DJKN.

Then the auction official is obliged to report the auction results in an auction minutes as specified in Article 35 of the Auction Regulations in Indonesia. Auction Minutes are records or minutes in the form of authentic deeds. The Auction Regulations have implemented implementing regulations and the latest one which has been replaced and amended several times is the Republic of Indonesia Minister of Finance Regulation No. 27/PMK.06/2016 Regarding Instructions for Auction Implementers (henceforth abbreviated as PMK Auction Implementers), the regulations determine the obligation of an auction official to make a report in the form of auction minutes when carrying out auction activities, as stated in Article 85 paragraph (1). Then in 2014 Law no. 2 of 2014 concerning the Position of Notaries (hereinafter referred to as UUJN) which results in uncertainty regarding the authority to make auction minutes, because Article 15 paragraph (2) letter g stipulates that a Notary has the authority to make auction minutes. The conflict of norms is found in Article 85 paragraph (1) PMK Auction Executor and in Article 15 paragraph (2) UUJN institutions appointed by different regulations. The person who has the authority to make the auction minutes deed is the notary. The emergence of a conflict of norms has implications for conditions that do not create legal certainty in the field of auctions, especially in the authority to make auction minutes, whether it is the responsibility and authority of the auction official or it will be the responsibility and authority of the notary. This ambiguity in norms will have an impact on the practical level in the field in making auction minutes, so it is important to study them in more depth and comprehensively in order to find an analysis. Therefore, the researcher formulates the problem below.

Based on the background above, the problem can be formulated as follows: What is the strength of the auction minutes evidence? And how to harmonize the regulation of the authority to prepare auction minutes?

METHODOLOGY

The type of research used in this research is normative research. Normative legal research is research that has as its object legal rules and regulations (Mukti Fajar ND and Yulianto Achmad; 2017). Normative legal research aims to find a clear legal basis for placing issues in legal perspective.

The approach methods used in this research are the conceptual approach, the statutory approach. The technique for collecting legal materials used is library legal materials, namely collecting legal materials by library study of legal materials, whether primary legal materials, secondary legal materials, or tertiary legal materials and/or non-legal materials. Searching for legal materials by

reading, viewing, listening and via the internet (Mukti Fajar and Yulianto Achmad).

After the legal materials obtained are in accordance with the legal material collection techniques above, the legal materials are processed and analyzed. In this preparation, the obtained legal materials are also analyzed using qualitative analysis, namely they are arranged and presented in the form of a series of sentences that describe the research results. To build a legal argument, it is better known as legal construction as a fact that is arranged deductively from general to specific things.

DISCUSSION

1.Strength of Proof of Auction Minutes Deed

a. Auction Minutes

Article 35 of the Vendu Regulation states that "From every sale in public by the Auction Officer or his proxy, during the sale, for each day the customer or sale is made a news report. separate event." Consequently, every auction conducted by the Auction Officer must have a Deed of Auction Minutes called the Auction Minutes. Article 1868 of the Civil Code states that "An authentic deed is a deed in the form determined by law, made by or in the presence of public servants who have the authority to do so in the place where the deed is made." If the Auction Minutes meet this requirement, they will be considered authentic deeds.

Minutes are drawn up based on the following provisions:

- a. Made according to law (Articles 37-39 Vendu Reglement).
- b. Made by or in front of the Auction Official (Article 1a and Article 35 Vendu Reglement)
- c. The work area of the Auction Officer is determined by the Minister of Finance.

As such, the Auction Minutes satisfy the requirements for being a genuine document. In light of this, the Auction Minutes can be used as perfect evidence in line with Civil Code Article 1870, which says that "An authentic deed provides between the parties and their heirs or people who receive rights from them, a perfect proof of what is contained therein." in order to shield the parties from outside parties suing them.

The process for compiling Auction Minutes carried out at the State Property and Auction Services Office is as follows:

1. The Auction Hall, namely KPKNL, receives the Auction request letter and any supporting documentation.
2. The Auction Officer sets the heading of the Auction Minutes to be read at the start of the auction after the Auction Information & Potential Analysis Section has examined the legality of the auction object and subject and decided the day and date of the auction.
3. The auction officer bases the bulk of the auction minutes on how the auction was carried out.
4. After the sale is over, the auction officer fills in the footnotes to the auction minutes.
5. The Auction Verification and Bookkeeping division receives the original Auction Minutes or the minutes created by the Auction Officer and makes any necessary corrections. Alternatively, the Potential & Exploration Section of the Lelang Documentation.
6. After that, an administrative officer helps the auction officer, who is then tasked with making copies, extracts, and quotations.
7. After completion, it is sent to the appropriate person and, in the case of minutes or original auction minutes, submitted to the section of auction information and potential analysis to be retained by the auction administration, which is responsible for archiving the auction minutes.

The original, handwritten minutes of an auction are created by the auction officer. Except in cases where they are used as evidence in District Court trials, State Administrative Courts, or other legal proceedings and have received clearance from the Supreme Court and the head of the State Auction Office, these minutes are kept in storage and are not permitted to leave the Auction Hall. An extract from the auction minutes is a subset of the auction minutes that only include the buyer's specific head and body components. A duplicate of the Auction Minutes is a subset of the Auction Minutes, which are limited to the head and cover and are merely a report to the State Auction Bureau and Regional Office. The Goose Auction Minutes are an image or a copy or snippet of the auction minutes that is formatted as a "executorial title," meaning that the words

"For the sake of justice based on the Almighty God" are at the top, and the phrases "given first grosse" upon request and the date of grosse are added at the bottom. provided.

a. Signing of the Auction Minutes Deed

As an illustration When giving a signature or fingerprint, the person may occasionally seem to be trembling or appear to be silent for a brief period of time, as though he is quietly speaking. These indicate not just that signing or placing fingerprints is significant, but also that he feels obligated by the items he chooses to sign or leave his fingerprints on. From an etymological perspective (the study of the syllable's origin), the word "sign" means to place a sign beneath something. This is known in Dutch as *Onder tekenen*, or *hand tekening*, and it implies writing; additionally, it is stamped in Indonesia. the thumb is comparable to Beneath a signature (Civil Code Article 1874). It is clear from Civil Code article 1867 that there are two different kinds of deeds, specifically:

a) Private deed

This is a purposefully prepared deed by the parties for evidence, such as household affairs documents, register documents, etc., without the use of a deed-making official (Article 1874 of the Civil Code). In the event that it is proven that the signature actually belongs to the parties, then it is undeniable that the signer has performed the legal act specified in the deed, which is undeniably the declaration of the party that signed it. When it comes to the statement, it is still disputed that it was made on the day specified in the deed.

b) Authentic Deed

Article 165 HIR and Article 285 RBG state as follows: "An authentic deed is a letter executed by or in the presence of a public official in power which will create sufficient evidence for both parties and their heirs as well as all people who receive rights from it, and Article 1868 The Civil Code states as follows: "An authentic deed is a deed in the form determined by law made by or before a public official who has authority for that purpose in the place where the deed is made."

What if the three elements of Article 1868 of the Civil Code are applied to the Auction Minutes, are the Auction Minutes an authentic deed? Based on this, it can be proven that:

- 1) The first element is that the form of an authentic deed is regulated by law. The form of the auction minutes is regulated in articles 37, 38 and 39 of the Vendu Regulations.
- 2) The second element is that the authentic deed must be made by or before a public official. Auction minutes are made by the auction official (above it has been explained that the auction official is a public official) then in article 35 VR it is stated that for every sale in public/auction an auction report/auction minutes must be made.
- 3) The third element is about what authority, when and where the deed was made. For auction minutes, we can see the provisions of articles 3 and 7 of the Vendu Regulations, which state that when and where the auction official will work is determined by the Minister of Finance. If it is proven that the auction minutes were prepared by an auction official outside his work area or at the time the auction minutes were drawn up he was already retired or on leave, then the auction minutes will be invalid.

b. Notary's Authority in Making Deeds

In accordance with Article 15 Paragraph (1) of Law Number 2 of 2014 on the Position of Notaries: "Notaries have the authority to make authentic deeds regarding all deeds, agreements and provisions that are required by statutory regulations and/or that are desired by interested parties to be stated in the deed authentic, guaranteeing the certainty of the date the deed was made, storing the deed, providing grosses, copies and quotations of the deed, all as long as the act of deed is not also assigned or excluded to another official or other person as determined by law." .

The elements of Article 15 of Law Number 2 of 2014 concerning the Position of Notary are:

- a) The person authorized to make an authentic deed must be a public official.
- b) Authentic deeds in the civil sector, the notary as a public official who has the authority to make them, unless certain deeds are expressly mentioned in statutory regulations. So the notary's authority is general while other public officials are specific (PPAT, auction officials).

- c) An authentic deed guarantees the certainty of its date, which means the date the deed was inaugurated. The deed is read, signed by the parties, public officials and where it was made.

The authority of general officials includes:

- 1) The public official must be authorized as long as the deed is made.
- 2) The public official must be authorized as far as the people for whose benefit the deed is made are concerned.
- 3) The public official must be authorized as far as the place where the deed is made is concerned.
- 4) The public official must be authorized throughout the time the deed is made.

These four authorities are for the Auction Officer:

- 1) The Auction Officer has the authority as long as the deed he makes is an auction minutes.
- 2) Auction Officials are only authorized to make auction deeds or minutes for auction service users.
- 3) Auction Officials are only authorized to make auction deeds or minutes within their work area.
- 4) The Auction Officer has the authority to make auction deeds or minutes while still in office.

As mentioned above, the Auction Minutes is an authentic deed. Where in Article 1868 of the Civil Code states the following: "An authentic deed is a deed which in the form determined by law is made by or before a public official who has authority for that purpose in the place where the deed is made."

The auction minutes meet multiple requirements, which is why they are called authentic deeds, according to this explanation: Legal regulations govern the format of genuine deeds. The Vendu Regulations, including articles 37, 38, and 39, limit the format of auction minutes. Additionally, the legitimate deed must to be performed in front of a public authority. The person conducting the auction drafts the minutes. A Notary is the auction representative that the concerned Director General has selected. Then, as per the Vendu laws, article 35,

each public sale and auction must be documented in an official report and auction minutes. (3) concerning who had the power, where it was done, and when. The provisions of articles for auction minutes are visible. According to Vendu regulations 3 and 7, the minister of finance decides when and where the auction official will work.

Before discussing the strength of the evidence, it is important to understand what evidence is. According to Erik, Triyanto, and Sesung (2017), evidence is a set of procedures used to gain or decide a right in order to fulfill the legal goals of justice and certainty. The quality of the auction minutes themselves is inextricably linked to the evidentiary strength of the minutes. Civil law divides the degree of proof into two categories, which are private letters and authentic deeds, as outlined in Article 1867 of the Civil Code. According to Article 1870 of the Civil Code, "private letters have proof at a level below that of authentic deeds, which have the legal force of perfect and binding evidence." f genuine actions." To determine whether the auction minutes are a legitimate deed or not, they must first satisfy the conditions listed in Article 1868 of the Civil Code, which govern what constitutes an authentic deed. These conditions include:

- a) The deed must be made by a public official
- b) The deed is determined by law
- c) The public official who makes the deed must be authorized to make the deed.

So, if the auction minutes do not meet the requirements determined by Article 1868 of the Civil Code, then the auction minutes cannot be said to be authentic deeds that have perfect proof (Tjukup, I. K., Layang,). In order to obtain the truth regarding the strength of the auction minutes' evidence, it can be analyzed using the elements in Article 1868 of the Civil Code which are analyzed below:

- 1) The deed must be made by a public official

According to the Auction Regulations, an auction minutes or what can be called auction minutes are prepared by the Auction Officer as regulated by Article 35 of the Auction Regulations Jo PMK Auction Implementation.

- 2) This deed is determined by law, the deed or auction minutes are made and ordered by law, in this case the Auction Regulations, namely Article 37, Article 38 and Article 39.

- 3) The Public Official who makes the deed must be authorized to make the deed.

The Auction Officer is a general official who has the authority based on the Auction Regulations, Auction Instructions and PMK for Auction Implementation."

These components support the conclusion that the auction minutes are genuine documents with the status of perfect proof under Article 1870 of the Civil Code, proving the auction outcomes. However, if an authentic deed is based on someone who lacks authority despite being a public official, it will be deemed underhanded, as stated in Article 1969 of the Civil Code. This indicates that "The auction minutes will become a private deed and not an authentic deed that has completed if they are prepared by a Notary who has not been designated as a Class II Auction Officer by the Minister of Finance." force of evidence in law." Therefore, in accordance with Article 1868 of the Civil Code, the strength of proof of auction minutes must first satisfy three requirements, namely:

- a) the deed must be made by a Public Official,
- b) the deed is determined by law and
- c) The Public Official who makes the deed must be authorized to make the deed, the Auction Minutes have fulfilled these three elements so that it can be said that the Auction Minutes are an authentic deed that has perfect proof, as long as it does not violate what is stipulated in Article 1868 and Article 1869 of the Civil Code.

The goals of law are threefold: justice, utility, and legal certainty, according to Gustav Radbruch's idea of legal certainty. There are two interpretations of the legal certainty hypothesis. To begin with, there are broad guidelines that help people recognize and comprehend what they are and are not allowed to do. Furthermore, individuals are protected from government arbitrariness by basic legal standards that provide legal certainty, so enabling them to know what actions the State may take against them. Following is the author's analysis: The written auction minutes provided by the auction officer provide the winning bidder with legal certainty. Buyers and sellers of goods use the Auction Minutes as a legitimate deed. in line with Article 1 Number 32 of the Minister of Finance Regulation Number 213/PMK.06/2020, which states: and Auction Officials to uphold and carry out their rights and obligations. It also possesses perfect evidentiary authority.

“Auction Minutes are minutes of the auction held by the Auction Officer which is an authentic deed and has perfect evidentiary power.

In light of this, Philipus M. Hadjon's theory of legal protection divides legal protection into two categories: repressive and preventive. Repressive legal protection for the community is achieved through the creation of deed products that ensure the certainty of legal actions and offer legal protection in the event that a dispute arises in the future. Following is the author's analysis: that the parties engaged in them now have legal protection thanks to the legislation governing their implementation. The Mortgage Rights Law (UUHT) offers legal protection to creditors. If the debtor believes there was a procedural error in the auction of the goods, he might seek legal protection through the courts. The auction minutes provide the winning bidder with legal protection since they are genuine documents with flawless evidentiary strength. As long as it complies with all applicable rules and adheres to the technical guidelines for holding the auction, KPKNL, as the auction organizer, will be protected legally through the Auction Officer.

1. Harmonization of the Authority for Making Auction Minutes

a. Authority of Class I Auction Officer

KPKNL's authority is regulated in Article 1 Number 15 and Article 9 Paragraph (1) and (2) Minister of Finance Regulation Number 27/PMK.06/2016, namely: Article 1 Number 15 "Class I Auction Officials are DJKN employee Auction Officials who have the authority to carry out Execution Auction, Mandatory Non-execution Auction, and Voluntary Non-execution Auction."

Article 9 Paragraphs (1) and (2)

(1) The Auction Officer consists of:

- a. Class I Auction Officer; And
- b. Class II Auction Officer.

(2) Class I Auction Officials have the authority to carry out auctions for all types of auctions at the request of the Seller.

Based on these two articles, the authority of KPKNL is to carry out auctions, both Execution Auctions, Mandatory Non-execution Auctions and Voluntary Non-execution Auctions, for all types of auctions at the request of the Seller.

b. Authority of Class II Auction Officer

In this case, the Class II Auction Officer according to Article 1 (2) of the Minister of Finance Regulation No. 175/PMK.06/2010 is a private auction official who has the authority to carry out Voluntary Non-execution Auctions. The same as Class I Auction Officials, Class II Auction Officials are also appointed and dismissed by the Director General on behalf of the Minister of Finance, but with a term of office of 5 (three) years and can be extended again.... Class II Auction Officials have the authority to carry out auctions at the request of the Auction House and the seller/owner of the goods.

The implementation of auctions by Class II Auction Officials is limited to Voluntary Nonexecution Auctions including but not limited to:

- 1) Auction of goods owned by BUMN/D in the form of a limited liability company;
- 2) Auction of bank assets in liquidation unless otherwise determined by statutory regulations
- 3) Auction of goods belonging to foreign country representatives; And
- 4) Auction of Private Property.

In carrying out the auction process, the auction regulations are the basic rules, so you must comply with the auction regulations. that after the completion of an auction process, it must then be carried out by preparing an auction minutes as in Article 35 of the Auction Regulations. Based on Article 1 number 32 "Auction Minutes include minutes of auction implementation made by the Auction Officer which include authentic deeds and have perfect evidentiary power." Article 1868 of the Criminal Code states:

"An authentic deed is a deed in the form determined by law made by or in the presence of public officials who have authority for that purpose in the place where the deed is made."

A notary as someone who carries out a profession based on the UUJN has the authority based on Article 15 paragraph (2) letter g to determine that a Notary based on the UUJN has the authority to make a Deed of Auction Minutes.

Article 15 paragraph (2) letter g UUJN contains a Vague Norm. This vague norm in the UUJN also has juridical consequences in that the formulation of Article 15 paragraph (2) letter g of the UUJN creates legal uncertainty, because it will give rise to two interpretations regarding the meaning of the Notary's power over the auction minutes deed:

- a) "First, every Notary is immediately authorized to draw up a deed of auction minutes, meaning that the position of Notary and the position of auction official are combined, once he becomes a Notary he automatically carries out the duties of an auction official. Thus, if a person has been appointed as a Notary Public, he does not need to be appointed as an auction official;
- b) Second, not all Notaries have the authority to make auction minutes deeds even though Notaries and auction officials have the same qualifications as public officials, only Notaries who have been legalized and designated as class II auction officials have the authority to make auction minutes deeds."

Resolving unclear norms in legal science can be resolved by interpreting the law to clarify Article 15 paragraph (2) letter g UUJN which discusses the authority of notaries in making auction minutes deeds. The theory of legal interpretation put forward by Utrecht has at least 5 (five) types of legal interpretation, including:

- 1) "Grammatical interpretation or meaning of words or terms (taalkundige interpretatie);
- 2) Historical interpretation (historische interpretatie);
- 3) Systematic interpretation (systematische interpretatie);
- 4) Sociological interpretation;

Authentic or official interpretation (authentieke or officiële interpretatie)" (Muda, I.; 2016) Using Systematic Interpretation, namely "interpretation according to the system that exists in the drafting of the law itself (systematische interpretatie), in this case taking into account the provisions other things in the law, including the most appropriate or suitable way to resolve existing difficulties. relevant legal text."

In order to clarify the notary's authority to avoid multiple interpretations of Article 15 paragraph (2) letter g UUJN, a systematic interpretation is carried

out by paying attention to the rules relating to this matter, in this case the Auction Regulations. Article 35 of the Auction Regulations and Article 87 paragraph (1) PMK Instructions for Auction Implementers to appoint other officials in the preparation of auction minutes. Article 35 of the Auction Regulations determines that:

"For each public sale carried out by the auctioneer or his proxy, during the sale, a separate minutes must be prepared for each day of the auction or sale." Then Article 87 paragraph (1) PMK Instructions for Implementing Auctions, stipulates: "Every auction an Auction Minute is drawn up by the Auction Official"

This means that Article 35 of the Auction Regulations and Article 87 paragraph (1) of the PMK Instructions for Auction Implementers requires "normatively that the person who has the authority to prepare the Auction Minutes is the Auction Officer."

Then between Article 15 paragraph (2) letter g UUJN and Article 35 of the Jo Auction Regulations. Article 87 paragraph (1) PMK Instructions for Auction Implementation are interconnected. Article 15 paragraph (2) UUJN determines "who has the authority to form or make auction minutes, namely the Notary, then Article 35 of the Auction Regulations and Article 87 paragraph (1) PMK Auction Implementation Guidelines determines who has the authority to make auction minutes, namely the Auction Officer, or Class Auction Officer I and Class II Auction Officials." So that those who have the right to make auction minutes are based on the power to make auction minutes which originates from the Auction Regulations, then the attribution authority is related to the original authority based on the constitution in the Law. Legislation that includes delegation of authority must be ratified by delegating authority to other government organs. There is no delegation of power in the mandate; however, individuals mandated to act on behalf of the mandate giver are authorized to do so. (Dewi, Ni Made Ayu Sintya and Resen, Made Gde Subha Karma.; 2021).

According to the Attribution Authority Theory, the Auction Official, not the Notary, has the obligation and authority to prepare auction minutes. The Directorate General of State Assets appoints Notaries after they have completed the education and training required to create Auction Minutes documents. Internships are required if the work is carried out by the Ministry of Finance (Tomy Indra Sasongko; 2017).

The government authorized special state-given responsibilities for notaries and Class II Auction Officers. The duties and authorities given to them are carried out in accordance with all relevant laws and regulations.

Regarding the importance of the auction minutes, UUJN has no information. "Auction minutes prepared by auction officials which contain authentic deeds and have perfect evidentiary power" is how the PMK Auction Implementation Guidelines describe auction minutes. The auction minutes in this instance were created by the auction official. An "auction officer" is a person designated by the finance minister to oversee the sale of goods at auction. Auction minutes must be documented by those designated by the Minister of Finance in compliance with the Ministerial Regulation (Sudikno Mertokusumo; 1999).

As previously explained, the Notary's authority to draft deed of auction minutes is restricted by Article 15 UUJN, which is why it cannot be finished in this way. That way, there's no chance of the Notary serving as the auctioneer. This is because auction officials are appointed by the Ministry of Finance, but notaries are appointed by the Ministry of Law and Human Rights. Because of UUJN, notaries now have more tools at their disposal to carry out their responsibilities as public authorities. Article 15, paragraph 2, letter g states that "Notaries are able to create auction minutes deeds, but without a Ministry of Finance appointment, these regulations cannot be applied directly, as there is only one public auctioneer in this instance." The Making the sale minutes is the responsibility of the auction official designated in the regulations. According to *Vendu* regulations, the notary who is authorized to create the auction minutes deed is one who satisfies all prerequisites and conditions for notaries to serve as auction officials. This Notary has been appointed and classified as a class II auction official by the Minister of Finance."

UUJN Article 15's goal is to unrestrictedly permit notaries to act as auction officials. To become a Notary auction officer, he must adhere to the rules set forth by the Finance Minister. Notaries must fulfill all prerequisites and obtain approval from the Directorate General of State Assets in order to become auctioneers (Tomy Indra Sasongko, 2017). Thus, in order to incorporate the Notary's ability to draft auction minutes in the UUJN into the regular operating procedures, more legislation is needed. The modification to the rule must contain a phrase that essentially says a notary can only make an auction minutes deed if he has been appointed as a Class II Auction Officer. This makes complete sense. because a notary cannot complete the creation of auction minutes in order to guarantee legal clarity.

Notaries cannot be appointed as class II auction officers, despite what is stated in Article 7 of the Vendue Instructions (also known as the Auction Jo Instructions in Indonesian). Notaries may be designated as PMK Class II Auction Officials, in theory. In order to carry out their duties, Class II Auction Officials who double as Notaries are required to uphold a distance from the Notary profession. Auction Minutes can only be prepared by a Notary who is a legal entity or who has been appointed by the Minister of Finance as a Class II Auction Official. as Class II PMK Auction Officer and Guidelines for Implementing PMK Auctions, in addition to the Auction Regulations, Auction Instructions, and implementing regulations.

Consequently, there are ambiguous standards in Article 15 paragraph (2) letter g UUJN after reading the explanation of the Regulation of Authority for Making Auction Minutes in View of the Law on Notary Positions provided above. Systematic Legal Interpretation, a theory of legal interpretation, can be used to overcome the ambiguity of standards in legal science. The Auction Regulations, which state that a Notary must first be appointed as a Class II Auction Officer by the Minister of Finance of the Republic of Indonesia in order to exercise his authority in making auction minutes deeds, must be linked to Article 15 paragraph (2) letter g of the UUJN. This requirement must be added to the UUJN through the legislative process in the Indonesian legislative entity, the DPR RI in this instance, to establish legal clarity in the day-to-day production of auction minutes deeds.

Problems of conflicting norms that occur can be resolved using legal principles that are relevant and have been used throughout the world, namely the principle of legal preference, consisting of 3 principles which include the lex superior principle, the lex specialist principle, and the posterior principle. (Hadjon, P. M., & Djamiati, T. S.; 2014)"

- a) The principle of lex superior derogate lex inferior means that legislation of a lower level is overridden by legislation of a higher level,
- b) The principle of lex posteriori derogate lex priori means that old statutory regulations are overridden by newer statutory regulations,
- c) The principle of lex specialis derogate legi generale which means two laws and regulations that hierarchically have the same position. However, the scope of the material content between the two statutory regulations is not the same, namely that one is a special regulation of the other (Marzuki, M.; 2017).

Lex specialis derogate legi generale, which states that more specific regulations take precedence over more general ones, is the principle of legal preference that best fits the current situation out of the three. Because of the Auction Regulations' peculiarity with relation to auctions, they are employed rather than the UUJN when applying the *lex specialis derogate legi generale* principle. According to the Theory of Authority, which examines the sources of authority, including attribution, delegation, and mandate authority, the person with the authority to write the auction minutes is based on the authority to do so, which is derived from the Auction Regulations. Attribution authority, on the other hand, refers to legitimate authority based on the foundation of the law's constitution. authority delegation needs to be validated as an authority transfer to other government agencies. A mandate does not involve any sort of delegation in the sense of granting authority; rather, the individual receiving the mandate acts on behalf of the one issuing it (Marzuki, M.; 2017).

Philipus M. Hadjon holds the following views about authority theory: every action taken by the government is presumed to be supported by lawful authority. Three methods are used to acquire this authority: mandate, attribution, and delegation. Delegated authority derives from an attributive delegation of authority, but a mandate does not arise. Attributive authority is typically defined by the legal division of state power. an authority transfer.

The Auction Officer is the one with the authority and duty to prepare auction minutes, according to the Attribution Theory of Authority. Thus, the author examines the Notary's authority under Article 15 Paragraph 2 Letter G with regard to recording auction minutes, which need to be governed with greater specificity to provide clarity. does not allow for different interpretations because the Notary does not have the authority to make auction minutes. Despite the fact that Article 7 of the Vendue Instructions, also known as Jo's auction instructions in Indonesian, regulates the appointment of Notaries as class II auction officials, it is still true. A Notary may, in theory, be appointed as a Class II Auction Official under Article 17 paragraph (2) of Regulation of the Minister of Finance of the Republic of Indonesia Number 175/PMK.06/2010 concerning Class II Auction Officials (hence referred to as PMK Class II Auction Officials). In order to fulfill his responsibilities as a Class II Auction Official, a notary must keep his notary business distinct since the roles of notary and of the auction official needs to be distinguished. The ability to make auction minutes is restricted to notaries who have been officially designated as Class II Auction Officials by the Minister of Finance. These notaries are guided by the Auction Regulations and Auction Instructions, as well as by implementing regulations

below, such as PMK for Class II Auction Officials and PMK Implementation of Auctions, which are not governed by UUJN.

As a result, the principle of *lex specialist derogate legi generalist* is used to harmonize the regulations governing the authority to make auction minutes. The basis for this authority is found in the auction regulations, which are held by the auction officer rather than the notary. Although Article 7 of the Auction Instructions jo. PMK Class II Auction Official permits a Notary to be appointed as a Class II Auction Official, this authority is granted to the Notary in his capacity as a Class II Auction Official, appointed by the Minister of Finance, rather than in his capacity as a Notary."

CONCLUSION

The Deed of Minutes is a genuine document possessing complete legal force of proof. Its evidentiary authority stems from Article 35 *Vendu Reglement* jo. Article 1868 of the Civil Code, which stipulates that an authentic document is one that is made in the format prescribed by law. An official who is allowed to do so in the location where the deed is made does the act. The solution to harmonize the regulations governing the preparation of tender minutes based on the *lex specialized derogate legi generalist* principle is found in the Auction Regulations. The Auction Officer has the ability to create Auction Minutes based on the Auction Regulations, not in the Notary Public. Notaries may be designated as Class II Auction Officials in accordance with Article 7 of the Auction Instructions. PMK Class II Auction Officials are authorized to create auction minutes; however, this authority is granted in the Notary's capacity as a Second Auction Official, designated by the Minister of Finance, rather than in the Notary's individual capacity. Article 15 paragraph 2 of the UUJN prohibits the Notary from making Deeds of Auction Minutes because only the Auction Officer is authorized to make such a deed, and the *Vendu Reglement* and its implementing regulations already contain these regulations. For this reason, the Notary's authority is not applicable.

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