

## **Third Party Opposition (*Derden Verzet*) to the Enforcement of Mortgage Rights Auction (Case Study of Sukoharjo District Court Decision Number 118/Pdt.Plw/2021/PN Skh)**

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### **Abstract**

Third-party opposition (*derden verzet*) to the execution of foreclosure auction is a legal effort to reject the seizure/auction on the basis of legal ownership of the auctioned object. The purpose of the opposition is to thwart or delay the execution of a foreclosure auction that is considered invalid or detrimental to one's right. This article aims to analyze the legal reasons for third-party opposition of postponement of execution, the extent of legal protection for auction winners, and how judges adjudicate such opposition cases. Issues that often arise in relation to lawsuits/opposition in court, even by parties acting in bad faith, create legal uncertainty for auction winners. The case study analyzed in this article is the Sukoharjo District Court Decision Number 118/Pdt.Plw/2021/PN Skh. The analysis shows that the judge in adjudicating the case has fulfilled the principles of justice and legal certainty as well as the legal protection of the parties, both the auction winner is acting in good faith and the opponent/plaintiff.

**Keywords:** Third-Party Opposition (*Derden Verzet*), Auction, Justice And Legal Protection

### **Introduction**

#### **Background**

That the third party was originally the legal owner of the auctioned property, and felt aggrieved by the execution of the lien auction, so the third party, in this case the original legal owner of the lien, filed a lawsuit against the State Property and Auction Service Office (KPKNL) in Surakarta by filing a counterclaim through the Sukoharjo District Court. Subsequently, the Sukoharjo District Court held a hearing on the case, namely Case Number 118/Pdt.Plw/2025/PN Skh. That in essence, *derden verzet* does not suspend execution (Article 2077 HIR/Article 227 RBg). Normatively, the provisions of Article 2077 of the Indonesian Civil Procedure Code (HIR) and Article 227 of the Rechtsreglement voor de Buitengewesten (RBg) confirm that the filing of a third-party opposition does not, in principle, suspend the execution. This is intended to ensure legal certainty and the effectiveness of the implementation of decisions or executions, including the execution of collateral rights, which are a means of legal protection for creditors. However, the judge may suspend enforcement if the opposition appears to be valid and legally justified. It is common for parties acting in bad faith to file lawsuits/objections in court, thereby creating legal uncertainty for the winning bidder. A frequent problem is that not all lawsuits or third-party objections are filed in good faith. In many cases, opposition is filed solely to obstruct or delay the execution process, creating legal uncertainty for auction winners who have legally obtained their rights through the state auction mechanism. This condition has the potential to harm various parties, including auction winners, creditors, and the auction institution itself, and ultimately can undermine confidence in the execution and auction system for lien rights.

Therefore, this study focuses on a juridical analysis of the position and limitations of *derden verzet* in the context of the execution of collateral rights auctions, the legal considerations of judges in assessing whether an objection is valid to suspend execution, and the implications of the decision, thereby conducting a legal study of Third Party Objections (*Derden Verzet*) to the Execution of Collateral Rights Auctions (Case Study of Sukoharjo District Court Decision Number: 118/Pdt.Plw/2025/PN Skh). This study also examines the balance between the protection of the rights of third parties acting in good faith and legal protection for auction winners as parties who have obtained rights through legal procedures.

Thus, the development of this topic is expected to contribute academically and practically to understanding the role and function of third-party resistance in the Indonesian civil procedural law system, particularly in relation to the execution and auction of encumbrances, as well as providing material for evaluation by policy makers and law enforcement officials in creating legal certainty and justice.

The sources of legal materials or secondary data in this study include primary legal materials, namely legal materials consisting of legislation, court decisions, and others. Meanwhile, secondary legal materials consist of law books, law journals, opinions of legal experts, legal research results, legal dictionaries, and legal encyclopedias.

#### Research Question

Based on the background above, the legal issues to be examined in this article are: (1) what are the legal grounds for third party opposition (*derden verzet*) to the auction of collateral rights? (2) is the execution of the auction of collateral rights by the KPKNL in accordance with the law? (3) does the decision of the Sukoharjo District Court in case No 118/Pdt.Plw/2021/PN SKh fulfill the principles of justice and legal certainty?

#### Objectives of the Research

This article aims to analyze the legal aspects of Third Party Opposition to the Implementation of Mortgage Auction (Case Study of Sukoharjo District Court Decision Number: 118/Pdt.Plw/2025/PN Skh). This legal study was conducted using a statute approach, with primary data collected from the research object in the field and secondary data from literature studies.

The case approach involves examining cases that have become court decisions and/or how legal cases are processed.

#### Conclusion

This study highlights the legal complexities involved in resolving conflicts between auctioneers, who aim to provide legal certainty for creditors and auction winners, and third parties whose rights also need to be protected. It also analyzes how courts respond to opposition in order to maintain justice and legal certainty for all parties.

The results of the study show that the existence of third-party opposition serves as a control mechanism for the execution process to prevent violations of the rights of other parties. However, if the opposition is filed without a strong legal basis and without good faith, it has the potential to create legal uncertainty and harm parties who have legally obtained their rights through the auction mechanism. Therefore, the application of the provisions of Article 2077 HIR and Article 227 RBg, which in principle state that opposition does not suspend execution, remains relevant to maintain the authority and effectiveness of execution.

Judges play an important role in achieving legal certainty and justice. In deciding opposition cases, judges must base their decisions on the theory of legal certainty and the facts on the ground in order to provide balanced legal protection between the rights of creditors to obtain repayment of debts through execution and the rights of third parties acting in good faith with regard to auctioned objects.

Thus, court decisions in third-party opposition cases must be directed toward achieving a balance between legal certainty and substantive justice. Legal protection for creditors and auction winners as parties who rely on the certainty of legal procedures must be maintained, without neglecting protection for third parties who are genuinely harmed. This conclusion emphasizes that the consistency and quality of the judge's considerations are key to creating legal certainty and justice for all parties involved in the execution of collateral auctions.

#### Recommendation

It is recommended that there be clearer guidelines or legislation to expedite the process of resolving counterclaims, for example by implementing a simplified examination procedure that is decided at the district court level and is immediately legally binding, in order to achieve simple, fast, and inexpensive justice.

The implementation of these simple examination procedures is expected to prevent the abuse of legal remedies by parties acting in bad faith, who have often used counterclaims as a means to delay or obstruct enforcement. On the other hand, this mechanism still provides legal protection for third parties who have legitimate rights, as judges are still given the authority to assess the substance of the opposition objectively and proportionally.

In addition, it is also necessary to strengthen coordination between the court, the KPKNL, and related parties through technical guidelines that regulate the impact of filing objections on the implementation of auctions and executions. These guidelines are important to ensure that during the objection examination process, there is no legal uncertainty regarding the status of the auctioned object that could harm the auctioneer or the auction winner.

With clearer regulations and a simple, fast, and effective inspection mechanism, it is hoped that the objectives of the administration of justice as mandated in the principles of simple, fast, and inexpensive justice can be achieved. This recommendation also serves as a preventive measure to strengthen legal certainty in the implementation of collateral auctions, without neglecting the principles of justice and legal protection for all interested parties.

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