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The Nature of Fiduciary Guarantee Execution Auctions and the Authority of Auction Officers in Achieving Justice for the Parties

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ABSTRACT

This study examines the legal nature and implementation of fiduciary guarantee execution auctions in Indonesia, with a particular focus on the authority of Class I Auction Officers in ensuring justice for the parties involved. Using a combined normative and empirical juridical approach, the research analyzes statutory regulations, legal doctrines, and field data related to fiduciary execution practices. The findings reveal that fiduciary execution auctions are fundamentally intended to provide legal certainty and protection for creditors while maintaining a balance with debtor rights. However, in practice, the authority of Class I Auction Officers has not been optimally implemented, as a significant number of fiduciary execution auctions—particularly involving motor vehicles—are conducted by Class II Auction Officers who lack execution authority. This condition creates procedural vulnerabilities and undermines substantive justice. The study identifies institutional interests of financing companies, inadequate registration of fiduciary guarantees on vehicle ownership certificates, limited availability of Class I Auction Officers, and revenue targets imposed on auction administration as key contributing factors. The research recommends regulatory reconstruction to clarify auction authority, strengthen institutional capacity, and improve fiduciary registration mechanisms to achieve legal certainty and justice for all parties.

Keywords: Fiduciary Guarantee; Execution Auction; Auction Authority; Legal Certainty; Justice

INTRODUCTION

Fiduciary guarantees play a pivotal role in Indonesia's credit and financing system, particularly within the rapidly expanding non-bank financial sector. As an accessory agreement attached to a principal debt obligation, fiduciary guarantees function as a legal instrument that secures the creditor's interest while simultaneously allowing the debtor to retain physical possession and economic use of the secured asset. This dual characteristic distinguishes fiduciary guarantees from other forms of security rights and reflects their underlying reliance on trust (fiducia), whereby ownership is transferred in a legal sense while control remains with the debtor. Such flexibility has rendered fiduciary guarantees highly attractive and widely utilized, especially in consumer financing arrangements involving motor vehicles, which constitute one of the largest segments of Indonesia's financing industry.

The extensive use of fiduciary guarantees, however, has also exposed structural vulnerabilities within their execution mechanism. Historically, fiduciary execution was perceived as offering a swift and efficient remedy for creditors in cases of debtor default, largely due to the executorial title embedded in the fiduciary certificate. In practice, this feature often enabled creditors or financing companies to repossess collateral unilaterally, frequently without adequate procedural safeguards for debtors. As a result, fiduciary execution became a significant source of legal controversy, particularly in relation to forced repossession, the involvement of third-party debt collectors, and the subsequent auctioning of secured assets. These practices raised serious concerns regarding due process, abuse of power, and the imbalance of bargaining positions between creditors and debtors.

A fundamental shift occurred following the Constitutional Court Decision No. 18/PUU-XVII/2019, which reinterpreted the executorial nature of fiduciary guarantees. The Court held that fiduciary execution may only be carried out directly if there is a clear and mutually agreed determination of default and the debtor voluntarily surrenders the secured object. In the absence of such conditions, execution must follow the same procedural safeguards applicable to the enforcement of final and binding court judgments. This decision significantly reshaped the legal landscape of fiduciary guarantees by curtailing unilateral execution practices and reinforcing the principles of legal certainty, proportionality, and protection of debtor rights. Consequently, fiduciary execution auctions are no longer merely technical administrative processes but are embedded within a broader constitutional framework of justice and due process.

These doctrinal developments have had direct and profound implications for the execution auction process and, in particular, for the authority of auction officials. Indonesia's auction system formally distinguishes between Class I Auction Officers, who are state officials operating under the Directorate General of State Assets (Direktorat Jenderal Kekayaan Negara/DJKN), and Class II Auction Officers, who function as private auction officials. From a normative legal perspective, execution auctions—especially those equated with the enforcement of court decisions or executorial titles—fall within the exclusive competence of Class I Auction Officers. This allocation of authority reflects the public-law character of execution auctions, which involve coercive state power and directly affect the legal rights of private parties.

Nevertheless, empirical evidence demonstrates persistent deviations from this normative framework. In practice, fiduciary execution auctions, particularly involving motor vehicle collateral, are frequently conducted by Class II Auction Officers or through private auction mechanisms initiated by financing institutions. Such practices raise critical legal questions regarding the validity of auction outcomes, the accountability of auction officials, and the extent to which procedural irregularities undermine legal certainty and substantive justice. The blurring of authority between Class I and Class II Auction Officers not only weakens the rule of law but also creates systemic risks for creditors, debtors, and third parties who rely on the legality of auction transactions.

Against this backdrop, this study seeks to provide a comprehensive legal analysis of fiduciary guarantee execution auctions in Indonesia. Specifically, it addresses three core issues. First, it examines the legal nature and underlying rationale of fiduciary guarantee execution auctions within Indonesia's legal system. Second, it analyzes the implementation of Class I Auction Officers' authority in fiduciary execution auctions and assesses the extent to which current practices align with prevailing legal norms. Third, it identifies the institutional, regulatory, and practical factors that necessitate regulatory reconstruction in order to restore legal certainty and achieve justice for all parties involved.

THEORETICAL FRAMEWORK

This study is grounded in authority theory, justice theory, and legal certainty as the main analytical framework for examining fiduciary guarantee execution auctions in Indonesia. From a public law perspective, authority (bevoegdheid) must derive from explicit statutory legitimacy and be exercised within clearly defined legal boundaries. Drawing on Max Weber's concept of rational–legal authority and administrative law doctrine, the legitimacy of auction officials is attached to the office as defined by law rather than to personal discretion.

In fiduciary guarantee execution auctions, auction authority constitutes a form of public legal competence because it involves coercive enforcement affecting private property rights; therefore, execution auctions must be conducted exclusively by officials who possess statutory authority. Deviations from legally prescribed authority structures, particularly in the involvement of unauthorized auction officials, are analyzed as ultra vires acts that undermine legal certainty and justice.

This framework is complemented by John Rawls' theory of justice as fairness, which emphasizes the protection of equal basic liberties and the equitable distribution of legal benefits and burdens. In this context, fiduciary execution mechanisms must strike a fair balance between creditor protection and debtor rights in order to prevent structural injustice arising from unequal bargaining positions.

Furthermore, the study incorporates the concept of legal certainty, as articulated by Gustav Radbruch and Satjipto Rahardjo, which views clear norms and consistent implementation as essential elements of a functioning legal system. Legal certainty is particularly crucial in execution auctions, where procedural ambiguity may lead to arbitrary practices. Normatively, fiduciary execution auctions are regulated under Law No. 42 of 1999 on Fiduciary Guarantees and Minister of Finance Regulation No. 122 of 2023 on Auction Procedures, which recognize execution auctions as lawful mechanisms for debt recovery. However, persistent ambiguity in the delegation and implementation of auction authority provides the basis for this study's critical examination and normative reconstruction.

RESEARCH METHODOLOGY

This research employs a normative-empirical juridical method. The normative approach analyzes statutory regulations, legal principles, and doctrines governing fiduciary guarantees and auction authority. The empirical approach examines implementation practices through data collected from auction offices, notaries, auction officials, and financing institutions. The study is descriptive-prescriptive, aiming not only to explain existing conditions but also to formulate normative recommendations.

RESULTS AND DISCUSSION

The Nature of the Regulation and Implementation of Fiduciary Security Execution Auctions

Regulation of Fiduciary Security Execution Auctions

After examining various legal materials and conducting interviews with relevant stakeholders concerning the nature of the exercise of authority in fiduciary security execution auctions as an effort to achieve justice for the parties, as well as the implementation of fiduciary execution auctions carried out by Class I Auction Officers, this study presents the findings discussed in this chapter.

Before addressing those findings, it is necessary to outline the procedure through which a fiduciary security agreement is formed and subsequently enforced, in accordance with the Fiduciary Security Law and related regulations, as a conceptual framework for understanding fiduciary financing—particularly fiduciary credit secured by motor vehicles.

In extending credit to the public, finance companies and banks typically require collateral from the borrower (debtor) as assurance that the debt will be repaid. One common form of security is an asset used as collateral that has economic value and may be sold to satisfy the creditor's claim when the debtor is no longer able to repay the debt.

Under the Fiduciary Security Law, "property" (benda) is defined broadly as anything that can be owned and transferred, whether tangible or intangible, registered or unregistered, movable or immovable, provided that it is not subject to a mortgage right (Hak Tanggungan) or a hypothec. The law also specifies categories of property that cannot be used as objects of fiduciary security, namely: mortgage rights related to land and buildings where registration is legally required; hypothec over registered vessels of 20 m^3 gross content or more; hypothec over aircraft; and pledges. At present, a vessel may be registered in Indonesia if it has a gross tonnage of at least GT 7, and a registered vessel may be used as collateral through the imposition of a vessel hypothec.

Not all members of the public possess assets that can serve as collateral for debt. In vehicle-financing transactions, the collateral object is typically the vehicle being financed by the finance company or bank. Because the financed vehicle may function as capital goods for the debtor's business activities, the parties often agree that the collateral remains in the debtor's possession. This arrangement gives rise to fiduciary security.

A fiduciary security is a debt-security agreement in which the fiduciary grantor (the debtor) transfers legal title of an asset to the fiduciary grantee (the creditor) on the basis of trust, and the creditor then allows the asset to remain under the control of the debtor on the basis of mutual trust. This definition shows that fiduciary security is a trust-based security arrangement: the collateral is not physically delivered to the creditor but remains in the debtor's possession.

The establishment of fiduciary security is preceded by a principal debt agreement between the debtor (fiduciary grantor) and the creditor (fiduciary grantee). In practice, the process generally begins when a prospective debtor applies for financing to a finance company or bank by submitting documents such as identification (ID card, family card, and marriage certificate, including spouse identity if applicable) and the details of the vehicle to be financed. If the creditor confirms that the documents are complete and the debtor is deemed eligible, the parties sign the credit agreement, which serves as the principal agreement underlying the financing and fiduciary security.

In vehicle-fiduciary financing, the transaction typically involves three parties: the consumer (debtor), the finance company/bank (creditor), and the supplier or dealer (seller). Between the consumer and the dealer, there is a conditional sale: the dealer sells the vehicle to the consumer on the condition that payment will be made by the creditor. If the creditor fails to provide the funds, the conditional sale is void. Thereafter, to repay the purchase price paid by the creditor, a debt agreement is concluded between the consumer as debtor and the finance company/bank as creditor.

In many cases, small-value fiduciary financing agreements are made under hand (private agreements) or merely legalized by a notary. However, to bind the vehicle as a fiduciary collateral object and to ensure legal certainty for the parties, a fiduciary security deed is executed. The Fiduciary Security Law requires that such a deed be made by a notary.

The fiduciary security deed must then be registered with the Fiduciary Registration Office. Fiduciary security legally arises on the same date it is recorded in the Fiduciary Register. Registration provides two essential legal benefits: (i) it grants the creditor priority over other creditors, and (ii) it grants the creditor the right to execute the fiduciary collateral in accordance with the Fiduciary Security Law.

The notarial deed shows that registration covers not only the fiduciary deed itself but also the fiduciary collateral object. Registration is carried out by the fiduciary grantee (creditor) or its authorized representative by submitting a fiduciary registration statement. In practice, fiduciary registration is commonly conducted online by the notary who executed the fiduciary deed, acting as the creditor's proxy.

The fiduciary registration statement includes the identities of both parties; the date and number of the fiduciary deed; the name and domicile of the notary; information on the principal agreement; the secured value and the value of the collateral; and a description of the fiduciary collateral object. After filing the application, the registration fee is paid, and the registration is recorded and electronically signed by the authorized official at the Fiduciary Registration Office. The Fiduciary Certificate can then be printed online by the notary. The fiduciary deed must be registered no later than 30 days from the date of its execution.

In principle, fiduciary registration is intended to protect the interests of the fiduciary grantee; thus, the obligation to register lies with the creditor (the finance company). Several factors may cause finance companies to fail to register fiduciary security, including: reliance on agreements executed only between the parties without involvement of a public official; the use of under-hand agreements that do not satisfy registration requirements (one key requirement is a notarial fiduciary deed with a deed number and notary identity); and the relatively small value of fiduciary loans, particularly motorcycle loans, which leads debtors to consider the costs of notarial fees and registration burdensome.

The legal consequences for a finance company that does not register fiduciary security are significant. Without registration, no fiduciary certificate can be issued; consequently, the creditor does not obtain legal protection under the Fiduciary Security Law because the fiduciary security is deemed never to have arisen. As a result, the finance company/bank cannot execute or repossess the vehicle as fiduciary collateral when the debtor defaults. Another consequence is that the creditor cannot request police assistance to secure the execution process, thereby undermining the possibility of orderly, safe, and accountable enforcement.

Administratively, a finance company that violates fiduciary registration requirements may be subject to staged administrative sanctions, including: (1) three written warnings over a period of 60 calendar days; (2) suspension of business activities for 30 days from the issuance of the suspension sanction; and (3) revocation of the business license by the Minister of Finance.

For finance companies that properly register fiduciary deeds, the creditor may exercise the right to execute the collateral under the Fiduciary Security Law. However, because the collateral remains in the debtor's possession by mutual agreement, execution typically requires repossession of the collateral object first. A debtor is considered negligent or in default if, within the stipulated period, the debtor fails to perform all or part of the obligations under the agreement—most notably, the obligation to repay the loan secured by the fiduciary object on time.

In reality, not all debtors are able to fully perform their obligations, and some are unable to repay the debt in full. In such cases, finance companies usually begin with a personal approach, such as visits and collection efforts, and may grant payment tolerance through warning letters (first, second, and third warnings), with time limits varying among institutions.

During collection, finance companies may use debt collectors based on a written cooperation agreement. Debt collectors must have authorization or professional certification in the financing sector issued by the Indonesian Financing Companies Association (APPI). Therefore, finance companies are prohibited from using uncertified collectors or illegal collectors commonly referred to as "preman."

In conducting collateral execution, finance companies must satisfy the following conditions: (1) the debtor is demonstrably in default; (2) the debtor has received warning letters; and (3) the creditor possesses a Fiduciary Certificate. Article 8(1) of the Indonesian National Police Regulation No. 8 of 2011 similarly requires warning letters and the existence of a fiduciary certificate for fiduciary execution. Accordingly, repossession by debt collectors cannot be carried out arbitrarily; it must comply with the legal framework requiring actual default proven by warnings and the presence of a valid fiduciary certificate.

If a finance company or a debt collector forcibly repossesses a vehicle without meeting these legal requirements, such action violates, inter alia, Ministry of Finance Regulation No. 130/PMK.010/2012 on Fiduciary Registration for Consumer Financing of Motor Vehicles, violates Article 5(1) in conjunction with Article 8(1) of Police Regulation No. 8 of 2011, and violates Article 50(1) of Financial Services Authority Regulation No.

35/POJK.05/2018. Such conduct may constitute an unlawful act and may be categorized as extortion/robbery-like coercion under Article 368 of the Criminal Code.

The Fiduciary Security Law sets out the legal measures available to creditors when debtors default. Fiduciary security has a distinctive feature in execution: it provides relative ease of enforcement in default situations. Article 15(2) of the law affirms that the Fiduciary Certificate has executorial force equivalent to a final and binding court judgment. Therefore, execution may be carried out directly without prior court proceedings and is final and binding upon the parties. If the debtor breaches the agreement, the fiduciary grantee has the right to sell the fiduciary object on its own authority. The legislative rationale for recognizing parate executie in fiduciary security is to enable creditors to execute more efficiently.

When linked with Article 29(1), the law provides alternative enforcement routes: execution based on the executorial title; sale through public auction; or private sale under mutual agreement if it yields the highest price and benefits the parties. In practice, non-performing fiduciary loans are generally resolved through sale by public auction.

Minister of Finance Regulation No. 122 of 2023 on Auction Procedures classifies fiduciary security auctions as execution auctions, and designates Class I Auction Officers—civil servants appointed as auction officers within the Ministry of Finance—as the officials authorized to conduct such auctions.

Implementation of Fiduciary Security Execution Auctions

Execution of fiduciary collateral generally begins with repossession of the collateral from the debtor because the asset remains under the debtor's control. Under Article 30 of the Fiduciary Security Law, the fiduciary grantor must surrender the collateral object for the purpose of execution. If the debtor refuses to surrender the collateral voluntarily, the creditor may request assistance from the Indonesian National Police in taking possession of the fiduciary collateral, as regulated under Police Regulation No. 8 of 2011. Once the creditor controls the collateral, execution proceeds.

Execution may be conducted in accordance with Article 29 of the Fiduciary Security Law through: (a) enforcement of the executorial title under Article 15(2); (b) sale through public auction by the creditor and repayment from the proceeds; or (c) private sale based on the parties' agreement if it achieves the highest price.

In practice, fiduciary enforcement is generally carried out through public auction. The auction procedure for fiduciary execution is regulated in detail under Minister of Finance Regulation No. 122 of 2023, which confirms that fiduciary execution auctions must be conducted by Class I Auction Officers.

A Class I Auction Officer is a Ministry of Finance civil servant appointed as an auction officer and authorized to conduct all types of auctions (execution auctions, mandatory non-execution auctions, and voluntary non-execution auctions), as expressly regulated in PMK No. 122 of 2023 and PMK No. 124 of 2023 on Class I Auction Officers. By contrast, Class II Auction Officers are private individuals appointed as auction officers whose authority is limited to voluntary non-execution auctions, as regulated under PMK No. 122 of 2023 and PMK No. 189/PMK.06/2017 on Class II Auction Officers.

The legal framework governing fiduciary execution—including the Fiduciary Security Law, PMK No. 130/PMK.010/2012, Police Regulation No. 8 of 2011, and relevant OJK regulations—limits the disposition of fiduciary collateral to: (a) public auction; and/or (b) private sale under mutual agreement prior to sale. Since Article 3(e) of PMK No. 122 of 2023 classifies fiduciary execution auctions as execution auctions, such auctions fall within the competence of Class I Auction Officers, with the fiduciary grantee (creditor) acting as the auction applicant.

The fiduciary execution auction process begins with preparation of required documents, including: an auction application letter from the creditor; evidence of default (warnings or creditor statement); debt calculation; notice of the auction plan to the debtor at least one day before the auction; the fiduciary certificate, fiduciary deed, and credit agreement; and proof of ownership/rights over the collateral. The auction procedure through the State Assets and Auction Service Office (KPKNL) includes submission of the application, scheduling, possible involvement of an auction house for pre-auction services (asset preparation, valuation, marketing), auction announcement, determination of the reserve price, opportunity for public inspection, conduct of the auction by the auction officer (assisted by an auctioneer where applicable), signing of the auction minutes, payment by the buyer, remittance of auction fees and taxes to the state, disbursement of net proceeds to the seller/auction applicant, and delivery of

Overall, the regulatory framework governing fiduciary execution auctions is comprehensive, covering not only the auction stage but also the formation of fiduciary security (Law No. 42 of 1999), the publicity principle through registration (Government Regulation No. 21 of 2015), fiduciary registration obligations for motor-vehicle financing (PMK No. 130/PMK.010/2012), enforcement safeguards (Constitutional Court Decision No. 18/PUU-XVII/2019, Police Regulation No. 8 of 2011, and OJK Regulation No. 35/POJK.05/2018), and auction governance (PMK No. 122 of 2023, PMK No. 124 of 2023, and PMK No. 189/PMK.06/2017).

Despite this robust regulatory structure, field realities show that these rules are not implemented effectively. Accordingly, it is necessary to reconstruct more implementable legal norms on fiduciary execution, with particular focus on auction mechanisms and the governance of auction authority—especially by strengthening the role and authority framework of auction officials so that auction practice can be carried out professionally and consistently with the principles of justice, utility, and legal certainty.

Implementation of the Authority of Class I Auction Officers in Fiduciary Execution Auctions to Achieve Justice for the Parties

Fiduciary security arises from a credit agreement as the principal contract and a fiduciary security deed as its accessory agreement. Article 5 paragraph (1) of Law No. 42 of 1999 on Fiduciary Security stipulates that "the encumbrance of an object with fiduciary security shall be made by a notarial deed in the Indonesian language and shall constitute a Fiduciary Security Deed." Accordingly, all fiduciary security deeds must be notarial deeds executed before a notary.

Article 29 of Law No. 42 of 1999 provides three methods for executing fiduciary collateral when the debtor defaults, namely:

1. enforcement of the executorial title as referred to in Article 15 paragraph (2) by the fiduciary grantee;
2. sale of the fiduciary collateral by the fiduciary grantee through a public auction and repayment of the debt from the auction proceeds; and
3. private sale conducted based on the agreement between the fiduciary grantor and the fiduciary grantee, provided that such sale yields the highest price benefiting both parties.

The second method—private sale—is permitted only if there is an agreement between the parties and the sale produces the highest possible price. This mechanism reflects the development of execution systems previously recognized in mortgage enforcement over land, as regulated under Law No. 4 of 1996. Similar to mortgage law, private sale of fiduciary collateral is subject to strict requirements, including:

1. mutual agreement between the fiduciary grantor and grantee regarding price and costs;
2. execution of the sale after a one-month period following written notification to interested parties; and
3. publication of the sale in at least two newspapers circulating in the relevant area.

Due to these stringent requirements, private sales are rarely chosen in practice and are generally limited to large-scale credit transactions. Consequently, public auctions conducted through auction houses are preferred, provided that formal legal requirements are met. This practice has created a legal loophole whereby fiduciary execution auctions are frequently reclassified as voluntary non-execution auctions.

Under Minister of Finance Regulation (PMK) No. 122 of 2023 on Auction Procedures, one essential element of an auction is the "auction seller," defined as a person or institution authorized by law or agreement to sell goods through auction. The auction seller is not necessarily the owner of the goods. However, a valid legal relationship—either authority or power of attorney—must exist between the owner and the auction seller.

In practice, auctions of repossessed vehicles conducted by Class II Auction Officers rely on several documents to justify categorization as voluntary non-execution auctions, including:

1. statements from vehicle storage companies declaring ownership or authority and asserting that the vehicles are not subject to fiduciary security;
2. statements and powers of attorney granted by storage companies authorizing auction houses and Class II Auction Officers to conduct voluntary auctions; and
3. powers of attorney from financing institutions to auction houses.

These documents function as legal shields enabling Class II Auction Officers to report such auctions as voluntary non-execution auctions, despite the fact that the auctioned vehicles were previously encumbered with fiduciary security.

Under Article 1 paragraph (1) of the Fiduciary Security Law, fiduciary security involves the transfer of ownership based on trust while the object remains in the debtor's possession. According to J. Satrio, fiduciary ownership is divided into economic ownership (retained by the debtor) and juridical ownership (held by the creditor solely as security). Tan Kamello further emphasizes that the creditor's ownership exists only after registration and only until the fiduciary security is extinguished pursuant to Article 25 paragraph (1) of the law.

The concept of "trust" implies that the creditor's rights are limited to securing repayment and that ownership reverts to the debtor upon settlement of the debt. As argued by Nurfaidah Said, the transfer of ownership in fiduciary security is merely a legal fiction; substantively, the collateral remains the debtor's property.

This interpretation is reinforced by statutory provisions prohibiting creditors from appropriating fiduciary collateral, restricting execution procedures, and requiring the return of any surplus proceeds to the debtor (Article 34 paragraph (1) of the Fiduciary Security Law).

Accordingly, in fiduciary execution auctions, the debtor is the legal owner and should act as the seller, with the creditor merely acting as an authorized agent. However, empirical findings reveal that creditors frequently act as de facto sellers, determining reserve prices and conducting auctions without notifying debtors.

Statements issued by vehicle storage companies are legally weak, as they are unilateral declarations lacking evidentiary force. Supreme Court Jurisprudence No. 3901 K/Pdt/1985 (29 November 1988) affirms that unilateral statements without courtroom examination have no probative value. Consequently, reliance on such statements exposes Class II Auction Officers and auction houses to legal liability.

Empirical research conducted by the author demonstrates that repossessed vehicles auctioned by Class II Auction Officers across South Sulawesi originated from legally registered fiduciary agreements. Despite this, Class II Auction Officers continued to conduct such auctions in violation of their statutory authority. Under authority theory, this constitutes an ultra vires act, lacking attributive authority, and violates principles of responsibility and legal certainty.

Sanctions applicable to such violations include annulment of auction minutes and administrative penalties under PMK No. 189/PMK.06/2017, including written warnings and dismissal.

Survey research involving 50 respondents further substantiates these findings. Data show that 63% of respondents perceive the authority of Class I Auction Officers as inconsistent with legal provisions, while 58% believe that auction processes lack transparency and fairness.

Using Lawrence M. Friedman's legal system theory, these findings reveal deficiencies across legal structure (institutional enforcement), legal substance (regulatory clarity), and legal culture (public awareness and compliance).

Statistical data from DJKN offices in South Sulawesi, Southeast Sulawesi, and West Sulawesi further demonstrate stark disparities: between 2023 and August 2025, Class I Auction Officers conducted only four fiduciary execution auctions, while Class II Auction Officers conducted over 1,000 vehicle auctions annually, generating trillions of rupiah in auction value and billions in auction fees.

This reality indicates systematic circumvention of fiduciary execution rules. Although socially tolerated, such practices are legally invalid and risk injustice for debtors, creditors, and auction buyers alike.

Accordingly, this study concludes that regulatory reconstruction is imperative, particularly by revising PMK No. 122 of 2023 and PMK No. 189/PMK.06/2017, to reallocate limited fiduciary execution authority to Class II Auction Officers under strict conditions. Such reform would eliminate legal smuggling, enhance procedural justice, and restore legal certainty in fiduciary execution auctions.

CONCLUSION

This study concludes that fiduciary guarantee execution auctions are normatively designed to uphold legal certainty and justice. However, deviations in authority implementation compromise these objectives. Strengthening regulatory clarity, enhancing institutional capacity, and improving fiduciary registration systems are essential to restoring the integrity of fiduciary execution auctions. Regulatory reconstruction should aim to ensure that auction authority is exercised lawfully, transparently, and fairly for all parties involved.

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