



Legal Uncertainty in the Implementation of Vacating Procedures Following Auction Execution

Ketidakpastian Hukum dalam Pelaksanaan Prosedur Pengosongan setelah Eksekusi Lelang

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Abstract: This study explores legal uncertainty in implementing vacating procedures after mortgage auction execution in Indonesia. Although the auction process is formally completed, winners often face difficulties taking possession due to the absence of a legally defined vacating timeframe. This research employs a normative juridical method with statutory, conceptual, case, and comparative approaches, analyzing various legal materials using systematic interpretation. Findings show that the lack of provisions in the Mortgage Law and Ministry of Finance Regulation No. 122 of 2023 creates a legal vacuum, requiring costly and prolonged enforcement processes. This uncertainty leads to juridical and economic losses and undermines market trust in auctions. A comparative study with the German legal system highlights the importance of clear vacating deadlines and direct enforcement by court bailiffs. Thus, regulatory reform is urgently needed to ensure legal certainty and effectiveness in post-auction enforcement, in line with Gustav Radbruch's principles of justice, utility, and legal certainty.

Keywords: Auction Execution; German Legal System; Legal Reform; Legal Uncertainty; Mortgage Law; Vacating Procedures

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Introduction

Banking credit is one of the main activities in bank operations that has a broad impact on society and the economy. Banks as intermediary institutions play an important role in channeling funds to the community through credit, both for consumptive and productive needs. To ensure the security of funds channeled, banks usually require collateral in the form of mortgages, especially on land and buildings, because their economic value is relatively stable and even tends to increase (Dalimunthe & Lubis, 2023, p. 957).

Providing credit with collateral is a common risk mitigation step taken by banks. With this guarantee, the bank has a strong legal position in the event that the debtor fails to fulfill

its obligations (Abubakar, 2018, p. 63). Mortgage rights give preferential rights to creditors to execute collateral through auction if the debtor defaults. However, in practice, the execution process does not always run smoothly. One of the main obstacles that often occurs is the difficulty of vacating the auction object even though the auction process has been valid and the auction winner has paid off his obligations (Nurkhasanah et al., 2025, p. 210).

This vacating issue shows that there is a void in Indonesian positive law, especially regarding the time limit or technical procedures for vacating. The Mortgage Law (Law No. 4/1996) as the main legal basis only regulates the right to sell objects by auction but does not explicitly regulate the technicalities of vacating after the auction is completed (Ariyani, 2024, p. 112). The provision in Article 6 of the UUHT, for example, does give the creditor the right to sell the security object, but does not explain further about the obligation of the occupant to vacate the object voluntarily or the time limit available (Putra, 2021, p. 23).

Likewise, Minister of Finance Regulation (PMK) Number 122 of 2023, which is a reference for the implementation of the auction, does not regulate in detail the time limit for vacating. Article 101 paragraph (4) only mentions the rights of the parties to the documents resulting from the auction, without substantially touching the aspect of vacating (Indonesia, Peraturan Menteri Keuangan, 2023a). Even in the procedures for implementing the auction, it is only stated that the responsibility for vacating is entirely in the hands of the buyer, and if it is not done voluntarily, an application can be submitted to the court (Indonesia, Peraturan Menteri Keuangan, 2023b). Unfortunately, the deadline is not explained, thus opening up opportunities for delays that are detrimental to the buyer or auction winner.

In practice, auction winners often have to wait a long time to take possession of the object, even up to years, as happened in the case at BNI Regional Office Padang, where the auction object was only vacated two years after the auction process was completed (Mochammad Teguh Ariyanto, 2022). Applying to the court is not always a quick solution, as it takes a considerable amount of time and money. The mechanism for requesting vacating through the court is based on Article 200 paragraph (11) HIR, which allows the court to issue a vacating order through a bailiff, but its implementation remains time-consuming and vulnerable to resistance (Nor Fuad Al Hakim, 2020).

Unilateral vacating by auction winners can even be considered an illegal act, especially when done forcibly or anarchically. In some cases, such actions have been sued by tenants as they violate the right to housing which is protected by law. Meanwhile, the Supreme Court's regulation through SEMA also changes frequently, ranging from SEMA No. 7/2012 which requires a lawsuit for vacating, to SEMA No. 4/2014 which allows direct application to the

court without a lawsuit. Unfortunately, these changes are not well socialized, causing confusion in legal practice. The situation becomes more complicated when the auction is conducted by a Notary authorized as a Class II Auction Officer. Despite having the authority to conduct voluntary non-execution auctions, Notaries do not have full authority in the process of vacating execution. The position of the Notary who must be neutral but also plays a role in the auction process creates a dilemma, as there are no clear operational guidelines to overcome conflicts such as unilateral control of the auction object by the losing party.

These problems not only have legal and economic impacts, but also social and psychological ones. Delays in vacating can traumatize tenants and cause material losses to the winning bidder. In fact, in some cases, vacancies have triggered social conflicts involving law enforcement officials and the surrounding community. This uncertainty is further exacerbated by inconsistent court decisions in similar cases. This inconsistency shows the weakness of the legal system in ensuring certainty for auction winners and reducing public confidence in the system of execution of mortgage rights in Indonesia.

In comparison, the German legal system has detailed deadlines for vacating in auction executions. The winner of the auction can request to vacate within 3-6 months according to the court decision, and if not complied with, the execution process is carried out legally by bailiffs with police support. This creates legal certainty for all parties and reduces the potential for conflict. Thus, this research is important to further examine the legal vacuum in regulating the time limit for vacating the object of a mortgage auction, and provide normative recommendations so that regulations in Indonesia become more certain, structured, and in favor of legal certainty.

This research employs a normative legal research method to examine positive legal provisions, legal doctrines, and expert opinions relevant to analyzing legal uncertainty regarding the time limit for vacating auctioned mortgage objects. This method is appropriate, as existing regulations such as the Mortgage Law, Minister of Finance Regulation No. 122 of 2023, and Supreme Court Circular Letters (SEMA) do not provide clear technical guidelines on post-auction eviction, creating a legal vacuum often exploited by debtors to delay vacating the property. The approaches used include the statutory approach (analyzing relevant laws and regulations), the conceptual approach (examining legal certainty and creditor protection), the case approach (such as a case at the BNI Regional Office in Padang where the eviction was delayed for two years), and the comparative approach (examining Germany's legal system, which sets firm deadlines and enforces evictions through court officers). The legal materials

consist of primary sources (laws and regulations), secondary sources (expert opinions, legislative histories, court decisions), and tertiary sources (legal dictionaries, academic articles). Data collection is conducted through library research, and legal analysis is performed using systematic and grammatical interpretation to identify the normative gap that contributes to legal uncertainty in the eviction process of auctioned objects.

Results and Discussion

Legal Uncertainty on Emptying Arrangements in the Execution of Mortgage Auction Objects

Credit is one of the important instruments in the modern banking system that not only supports financial stability but also encourages the economic growth of the community (Challoumis & Eriotis, 2024, p. 1598). In practice, bank loans are generally accompanied by strong collateral, one of which is mortgage rights. Mortgage rights are considered a form of material security that provides legal protection to creditors because it allows debt settlement through object auctions if the debtor fails to fulfill his obligations (Yahya et al., 2024, p. 113). This right is preferential and follows the object (*droit de preference* and *droit de suite*), making it the main choice in long-term financing agreements by financial institutions.

Although in theory, mortgage rights provide legal certainty, in practice there are still serious obstacles, especially at the stage of vacating the object after the auction. One of the main problems is the absence of a clear time limit in the legislation regarding when the object must be vacated by the occupants after the auction is completed. As a result, auction winners who legally have rights to the auction object cannot directly enjoy their rights because they are hampered by the existence of debtors or third parties who still control the object (Octavian, 2024, p. 798). This uncertainty shows the weakness of the regulation in guaranteeing the real (physical) rights of the auction winner.

This problem has been identified in a concrete case in the work area of PT Bank Negara Indonesia (Persero) Tbk. Padang Regional Office, where the process of vacating the auction object was only carried out two years after the auction process was completed. This delay occurred because the occupants remained and refused to leave the property, even though the title had officially transferred. This situation indicates a legal vacuum that opens up space for free interpretation, as well as being a weak point in the implementation of the principle of legal effectiveness in property security transactions. This legal uncertainty can even disrupt the stability of the auction market because it reduces the interest of bidders due to post-transaction uncertainty.

To date, there is no explicit provision in Law Number 4 Year 1996 on Mortgage Rights (UUHT) or Minister of Finance Regulation Number 122 Year 2023 that strictly regulates the time limit for vacating after the auction is completed. Both regulations emphasize more on the formal procedures of auction and transfer of rights, but ignore the most crucial practical aspect: when and how the vacating should be done. In this situation, auction winners often have to resort to time-consuming and costly legal channels, such as applying to the court for vacating through the *exequatur* mechanism under Article 200 paragraph (11) HIR.

International research shows that similar weaknesses have also been experienced in other developing countries, where post-auction vacancy delays impact investor confidence and the efficiency of the legal system. For example, a study by Ferreira and Gyourko (2021) emphasizes the importance of execution turnaround time in maintaining the stability of the property and banking markets in the United States after the subprime mortgage crisis, where delayed vacations increased systemic risk and decreased the overall value of auction assets (Hartley, 2010, p. 15).

In comparison, the German legal system sets a certain time limit for occupants to leave the object after the auction through the *Zwangsversteigerungsgesetz (ZVG)*, which provides legal protection not only for creditors and auction winners, but also provides procedural clarity for occupants through court-imposed deadlines. Thus, Indonesia needs to consider formulating similar provisions in national regulations to close legal loopholes that have been a source of uncertainty.

1) Factors Causing Problems in the Execution of Mortgage Auction Objects

The main problem in the execution of mortgage auction objects is the absence of clear arrangements regarding the time limit for vacating after the auction is completed. The Mortgage Rights Law (UUHT), as the main legal umbrella, does give creditors the right to conduct auctions of collateral objects without going through the court as stipulated in Article 6 (Effindri, 2024, p. 1214). However, the regulation is not accompanied by provisions that explicitly regulate the mechanism for vacating objects after the auction, including the time limit. As a result, the winner of the auction who legally has the right to the object is often unable to physically take possession of it because the occupants or debtors remain. This creates a legal loophole that causes uncertainty and worsens the effectiveness of execution of mortgage rights in banking and financing practices. A similar situation also exists in the legal systems of other developing countries, where the absence of technical regulations is a major obstacle to the efficient execution of collateral.

The incompleteness of this arrangement has an impact on all parties involved. For creditors, obstacles to vacating mean delays in asset recovery and potential economic losses as the value of the collateral is not immediately realized. For auction winners, legal uncertainty causes additional risks, especially because the assets that have been purchased cannot be utilized or managed within a reasonable time. This causes many potential bidders to be reluctant to participate in the auction process for fear of facing the same problems. As a result, the market value of the auction object becomes low, so that the results of the auction are not optimal and harm both parties, both creditors and debtors (Lumare & Djajaputra, 2023, p. 3261).

Taking these conditions into account, it is imperative for Indonesia to revise and harmonize the provisions in the UUHT with the implementing technical regulations, including PMK No. 122 of 2023. Regulatory harmonization will not only reduce multi-interpretation, but also speed up the execution process and increase legal certainty. Countries such as Germany have implemented strict and structured vacating time arrangements in their execution procedural laws, which have proven to increase efficiency and reduce the number of post-auction disputes. Therefore, the establishment of regulations that contain detailed vacating procedures and definite time limits is a strategic step that must be taken to strengthen legal protection for all parties involved in the auction of mortgage objects.

2) Minister of Finance Regulation Number 122 of 2023 concerning Guidelines for the Implementation of Auctions

Regulation of the Minister of Finance (PMK) Number 122 of 2023 should be present to provide legal certainty in the implementation of auctions, especially related to the object of mortgage collateral. One of the articles, namely Article 101 paragraph (4), explains the administrative rights of the parties related to the auction minutes (Indonesia, Peraturan Menteri Keuangan, 2023a). However, this provision is only limited to emphasizing that the winner of the auction is entitled to a document proving the transfer of rights. Unfortunately, this regulation does not concretely regulate the mechanism for vacating objects, especially in terms of the time limit or maximum period for vacating. This creates a legal loophole that raises doubts and concerns for the auction winner in actually controlling the asset.

The lack of clarity regarding the timing of vacating has serious implications in practice. Although the legal title to the object has been transferred to the auction winner, it is often the case that the former occupants are still occupying the property without any legal basis. Without explicit rules regarding the time limit for vacating or the procedures to be followed, the auction winner is forced to resort to additional legal channels, such as filing a request for

execution to the court, which requires a lot of time and money. This is a disincentive for potential bidders and reduces market interest in auction objects whose control status is still uncertain. This risk also affects the price of the auction object which is not optimal, and ultimately harms all parties, including creditors, debtors, and auction buyers.

Therefore, it is necessary to revise or add provisions in this PMK that explicitly regulate the time limit for vacating and the legal consequences for residents who refuse to leave. Firmness in this arrangement is very important to avoid post-auction disputes and ensure that the implementation of mortgage rights runs efficiently. If there is no update in this regulation, the auction system as one of the instruments for resolving non-performing loans will continue to face obstacles that harm the legal interests of the parties that should be protected.

3) Procedures for Implementing Auctions Regulated in PMK Number 122 of 2023

The procedure for implementing the auction regulated in the Minister of Finance Regulation No. 122 of 2023 in principle places the responsibility of vacating the auction object entirely in the hands of the buyer. If the auction object in the form of land or building is still occupied, then the buyer must take legal action by submitting an application to the head of the court to obtain an order to vacate. However, the problem is that there is no time limit specified in the regulation, both regarding how long the occupants can stay after the auction, as well as the maximum deadline for the buyer to carry out the execution (Sukmaya et al., 2020, p. 204). This void creates uncertainty and increases the potential for conflict between the buyer and the occupants of the auction object.

In practice, the procedure of vacating through the court not only requires a long time, but also considerable additional costs. The application for vacating must be accompanied by legal documents such as Grosse Minutes of Auction and will be processed through the mechanism stipulated in Article 200 paragraph (11) HIR (Endratno, 2019, p. 10). However, this legal route is often utilized by the old occupants to delay the vacating with various reasons, such as filing a legal challenge or simply delaying without a clear basis. This condition puts the auction winner in a difficult position because even though they have legally become the new owner, they have not been able to physically take possession of the object. This situation creates an imbalance that is detrimental to the legal and economic position of the auction winners (Agustina, 2024, p. 52).

Furthermore, if the auction winner or creditor takes unilateral action in an effort to vacate, for example by intimidation, coercion, or forced possession, it can be categorized as an illegal act. Old tenants have the right to sue civilly, even take criminal action if they feel

aggrieved. Therefore, in addition to being financially detrimental, regulatory uncertainty can also plunge auction winners into long and complex legal disputes. For this reason, it is necessary to have more detailed and firmer implementing regulations regarding the procedures and deadlines for vacating so that the process of executing mortgage rights can run fairly, efficiently, and not cause new legal problems in the future (Anggara, 2024, p. 99).

4) Uncertainty Regarding the Procedural Law with regard to the Vacation of the Auction Object

The uncertainty of procedural law in the execution of vacating the object of a mortgage auction is one of the root problems that cause the execution process to be ineffective (Sunandar, 2021, p. 119). Although Article 1977 of KUHPer regulates the protection of good faith buyers, there is no technical regulation that clearly guarantees how the buyer can immediately obtain physical possession of the object he has won in the auction (Gumilang et al., 2024, p. 305). In practice, buyers often have to resort to additional legal procedures, which complicates the realization of their rights. This is exacerbated by the nature of the existing regulations, which are only in the form of Supreme Court Circular Letters (SEMA) which are administrative in nature and can change at any time, thus not creating long-term legal certainty (Imam Arif Zamani, 2025, p. 7).

The change in the substance of procedural law from SEMA No. 7/2012 to SEMA No. 4/2014 is also a source of confusion. SEMA 7/2012 requires the vacating of the auction object to be done through a civil lawsuit first, which is certainly time-consuming and costly. Meanwhile, SEMA 4/2014 simplifies the process by allowing direct application to the court chairman without a lawsuit (Nugrohandini & Mulyati, 2019, p. 35). Unfortunately, these changes are not socialized optimally. As a result, many parties, both legal practitioners and executing officials, still use the old approach or misunderstand the correct procedure. This condition makes the implementation of execution depends on the interpretation of each court, resulting in inequality in legal protection for auction winners in various regions.

The absence of normatively binding regulations, such as laws or government regulations, means that the vacating process does not have uniform operational standards. In an ideal legal system, procedural law must provide certainty and simplicity of procedures so that the exercise of rights over auction objects can be carried out quickly and efficiently. Without it, the risk of violation of rights against the buyer is greater, and the auction system as a mechanism for resolving receivables loses its effectiveness. Therefore, it is necessary to establish stronger and more structured procedural law norms, so as not only to provide

protection to buyers, but also to strengthen the credibility of auction institutions as a means of enforcing legitimate creditor rights.

The Impact of Legal Vacancy on the Setting of the Vacation Time Limit in the Execution of Mortgage Auction Objects

The absence of rules regarding the time limit for vacating in the execution of mortgage auction objects has created significant legal uncertainty for auction winners (Syaputra, 2024, p. 63). Although legally they have legal rights to the auction object after paying in full and obtaining the auction minutes, in reality they cannot immediately take possession of the asset. The old occupants often refuse to leave, and even carry out legal or social resistance, so that the auction winners must take additional legal processes such as vacating requests to the court. This situation clearly undermines the principle of legal certainty that should be guaranteed in transactions through the auction mechanism.

This uncertainty not only harms the auction winner personally, but also disrupts the credit recovery process by banks. Banks that are supposed to obtain repayments from the sale of collateral objects are hampered, because the objects cannot be immediately transferred or monetized by the buyer. This condition can lead to an increase in the ratio of non-performing loans, which in turn affects the stability and liquidity of the banking system. Furthermore, the inability of financial institutions to effectively execute mortgage rights can weaken the function of collateral as a risk mitigation tool in the national financial system (A. P. Putra, 2021, p. 22).

Another impact is seen in the economic losses borne by the auction winners. In addition to not being able to utilize or manage the auction object directly, they are also burdened with additional costs such as security, legal management, and potential loss of income due to unproductive assets (Anggara et al., 2022, p. 347). In the long run, these obstacles will reduce public interest in participating in the auction, which then has an impact on lowering the auction price below market value. This situation is detrimental to all parties - auction winners, creditors, and even debtors because the value of the auctioned assets does not reach its optimal potential.

Finally, regulatory uncertainty creates legal gaps that open up opportunities for multiple interpretations. In practice, judges in different regions may have different interpretations of the vacating mechanism or timeframe, with the result that there is no standardized standard to which parties can refer. This encourages settlements to rely more on negotiations, rather than on strict law enforcement. Therefore, there is a need to reformulate

regulations that explicitly stipulate the time limit for vacating and the implementation mechanism, so as to ensure legal protection, encourage execution efficiency, and strengthen the credibility of guarantee institutions in the Indonesian legal system.

Analysis Based on Gustav Radbruch's Theory of Legal Certainty

Gustav Radbruch's theory of legal certainty emphasizes that the ideal law must contain three main values: justice, benefit, and legal certainty (Kurniawan, 2024, p. 44). When associated with the issue of execution of vacating the object of a mortgage auction, it can be seen that the aspect of legal certainty is very important. Unfortunately, in practice, the absence of explicit provisions regarding the time limit for vacating makes the rights of auction winners difficult to realize. Although they have legally owned the auction object, without clarity on the time for vacating, the right becomes ineffective, and this shows that the applicable law has not been able to provide predictability as conceptualized by Radbruch.

The absence of norms in the Mortgage Law and Minister of Finance Regulation No. 122 of 2023 has led to various interpretations from law enforcement officials, courts, and the police (Indonesia, Peraturan Menteri Keuangan, 2023b). As a result, the execution of vacations often relies on additional mechanisms such as court decisions, which are not only time-consuming but also costly. In Radbruch's view, the law must be reliable and obeyed on the basis of objective certainty (Beyleveld & Berteau, 2024, p. 112). However, in this context, the law opens a gap of uncertainty that makes the process of exercising rights slow and disproportionate, contrary to the principle of the rule of law which should guarantee substantive and procedural justice.

These conditions indicate the need for legal reform to fill this void (Zuhdi et al., 2025, p. 48). Solutions that can be taken include strict regulation of the deadline for vacating the auction object, imposing administrative or legal sanctions for uncooperative occupants, and simplifying the court process so that the auction winner can take possession of the object within a reasonable time. If this is clearly regulated, then not only legal certainty is fulfilled, but also legal benefits can be felt by all creditors, auction winners, and debtors, without sacrificing the principle of justice put forward by Radbruch (Beyleveld & Berteau, 2024, p. 99).

Thus, the renewal of regulations governing the time limit for vacating concretely is very important so that the mechanism of execution of mortgage rights can run more fairly, efficiently and reliably. This effort will strengthen the credibility of national law in ensuring the protection of citizens' rights, while reducing social conflicts that often arise due to legal uncertainty. In line with the teachings of Gustav Radbruch, legal certainty is not merely about

adherence to written norms, but also ensuring that the law works to guarantee a real sense of justice and social benefit in people's lives.

Table 1: Comparison of Auction Implementation between Indonesia and Germany

Aspects	Indonesia	Germany
Legal Basis	<ol style="list-style-type: none"> 1. Law No. 4 of 1996 on Mortgage Rights (UUHT) 2. Minister of Finance Regulation No. 122 Year 2023 3. Civil Procedure Law (HIR/RBg) 3. 	<ol style="list-style-type: none"> 1. Bürgerliches Gesetzbuch (BGB) - German Civil Code 2. Zwangsversteigerungsgesetz (ZVG) - Forced Auction Law 3. Zivilprozessordnung (ZPO) - German Civil Procedure Code
Emptying Time Limit	There is no explicit regulation regarding the time limit for vacating the object after the auction is completed.	There is a clear time limit: 3-6 months after the court decision becomes final, with the possibility of extension on humanitarian grounds.
Discharging Procedure	The winner of the auction must apply to the court for execution. If the tenant refuses, the process can be long and drawn out.	After the auction, the winner must apply to the court for permission to vacate. If the tenant refuses, the bailiff (gerichtsvollzieher) will carry out the execution by force.
Role of Law Enforcement Officials	No firm guidelines on the role of courts and police in execution timelines; frequent differences in treatment between regions.	The bailiff is fully responsible for the emptying. The police may intervene in case of refusal or resistance from the old tenants.
Legal Certainty	Low, because regulations do not provide procedural and temporal certainty, causing many interpretations and implementation conflicts	High, because the written law sets out clear procedures and time limits, as well as sanctions for tenants who impede execution.

Source: Secondary, primary and tertiary data by Armylenia Nasha Ratmaya (2025).

Germany's auction system offers much more legal certainty than Indonesia's, mainly due to the strict rules on vacancy deadlines after the auction (Ragno, 2019, p. 27). German regulations, such as the Zwangsversteigerungsgesetz (ZVG), explicitly stipulate a period of time for existing tenants to leave the property. After this period has expired, the bailiff (gerichtsvollzieher) has the authority to conduct a forced eviction without the need for an additional execution application to the court (Schmid & Nikolic, 2018, p. 113). In contrast, in

Indonesia, there are no clear rules regarding when occupants must leave the object of an auction, so auction winners often face legal and social obstacles in obtaining physical ownership of the assets they legally purchased.

In addition, the German execution system is more efficient because it is managed directly by the courts and police, who work according to court orders without having to wait for a lengthy process. Bailiffs can act as soon as the time limit expires, while the police can be involved if there is resistance from the occupants. This is very different from Indonesia, where the execution of vacancies requires additional judicial processes, such as applications to the district court, which often takes a long time and raises the potential for counter-suits from existing tenants.

Another advantage of the German system is the strong legal protection for the winner of the auction. After winning the auction and making the payment, the winner has a solid legal basis to obtain physical possession of the object. This is in contrast to Indonesia, where many auction winners are unable to access their properties due to incomplete vacating processes and are not protected by provisions for sanctions against uncooperative former occupants. As a result, it is not uncommon for auction winners to suffer economic losses and lose confidence in the auction process as an effective security execution mechanism.

Based on this comparison, Indonesia can take important lessons from the German system, including by setting an explicit time limit for vacating, giving direct authority to bailiffs or the police to execute vacancies, and regulating sanctions for non-compliant parties. In addition, execution procedures also need to be simplified so as not to create a bureaucracy that is difficult and detrimental to the winning bidder. By making these reforms, the process of auctioning mortgages in Indonesia will become fairer, faster, and in line with the principle of legal certainty, as emphasized in Gustav Radbruch's theory of legal clarity and predictability.

CONCLUSION

There is a norm vacuum in regulating the time limit for vacating the object of a mortgage auction which results in legal uncertainty for the auction winner, creditor, and debtor. Although the Mortgage Law and PMK Number 122 of 2023 have regulated the auction mechanism, both have not provided clarity regarding the time limit for vacating, technical procedures, and sanctions for violations, thus opening up room for multiple interpretations in the execution. As a result, the winner of the auction cannot immediately take possession of the object in real terms, and is even trapped in further legal processes that are time-consuming

and costly, and risk social conflicts and lawsuits. This uncertainty also reduces the effectiveness of mortgage rights as credit collateral and lowers public confidence in the auction system. Comparative studies with Germany show that legal certainty can be achieved through strict vacating time arrangements, efficient procedures, and clear sanctions for parties that impede execution. Therefore, the reformulation of regulations that emphasize the post-auction vacating time limit is an important step to ensure the implementation of law that is fair, predictable, and in favor of substantive justice according to Gustav Radbruch's theory of legal certainty.

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