

**PERLINDUNGAN HUKUM PIHAK KETIGA ATAS HAK  
KEPEMILIKAN SEBAGIAN OBJEK LELANG**

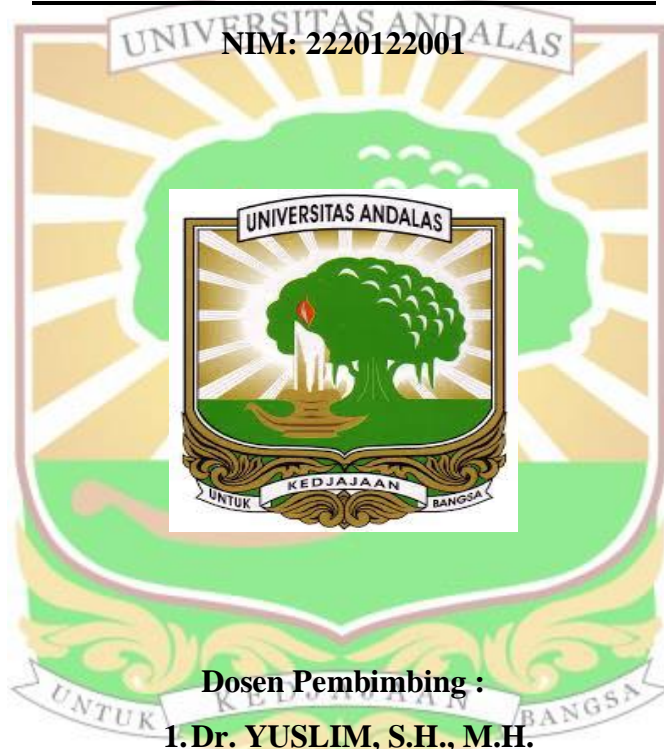
**TESIS**

*Diajukan Sebagai Salah Satu Syarat Untuk Memperoleh Gelar Magister  
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## **PERLINDUNGAN HUKUM PIHAK KETIGA ATAS HAK KEPEMILIKAN SEBAGIAN OBJEK LELANG**

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### **ABSTRAK**

Tujuan Penelitian untuk menganalisis dan mengetahui perlindungan hukum pihak ketiga atas hak kepemilikan sebagian objek lelang yang terjual baik dalam perspektif hukum pidana maupun hukum perdata serta pertimbangan hakim dalam memutus perkara yang sebagian objek jaminan merupakan hak milik pihak ketiga pada kasus tersebut diatas berdasarkan Putusan Pengadilan Negeri Nomor 49/Pdt.G/2021/PN.Kdi. Permasalahan dalam penelitian yaitu perlindungan hukum pihak ketiga atas hak kepemilikan sebagian objek lelang yang terjual baik dalam perspektif hukum pidana maupun hukum perdata dan pertimbangan hakim dalam memutus perkara yang sebagian objek jaminan merupakan hak milik pihak ketiga berdasarkan Putusan Pengadilan Nomor 49/Pdt.G/2021/PN.Kdi. Tipe penelitian yuridis normatif, dengan menggunakan metode pendekatan Perundang-Undangan, pendekatan kasus, pendekatan konseptual dan menggunakan teori kepastian hukum, teori perlindungan hukum dan didukung teori keadilan. Bentuk perlindungan hukum bagi pihak ketiga atas hak kepemilikan sebagian objek lelang berdasarkan Putusan Pengadilan Nomor 49/Pdt.G/2021/PN.Kdi yaitu untuk mengganti akan kerugian yang timbul karena risalah lelang yang objeknya dikembalikan kepada pihak ketiga menyangkut tiga unit ruko miliknya, sehingga pihak ketiga mendapatkan haknya kembali atas tiga unit ruko yang telah dijadikan sebagai satu kesatuan dengan objek jaminan Sunarti Gaffar yang terlelang dan dalam Putusan Pengadilan Nomor 11/Pdt.G/2020/PN.Dmk Majelis Hakim telah mengembalikan objek lelang kepada Penggugat, namun setelah dikeluarkan Putusan Pengadilan tersebut pemenang lelang menjadi pihak yang dirugikan dikarenakan tidak dijelaskan didalam Putusan Nomor 49/Pdt.G/2021/PN.Kdi dan Putusan Pengadilan Nomor 11/Pdt.G/2020/PN.Dmk mengganti akan kerugian yang timbul karena risalah lelang yang objeknya dikembalikan kepada Pihak Ketiga. Majelis hakim pada Putusan Pengadilan Nomor 49/Pdt/2021/PN.Kdi telah memberikan putusan yang tepat atas perbuatan melawan hukum yang telah dilakukan oleh Sunarti Gaffar dan bank, yang mana pernah terjadi jual beli antara Sunarti Gaffar dan La Dullah dengan bukti Akta Jual Beli Nomor 156/KKD/AJB/2010 yaitu jual beli tanah yang berupa lahan kosong sesuai Sertifikat Hak Milik Nomor 00366 milik Sunarti Gaffar namun tidak termasuk tiga unit ruko disebelahnya, jadi dapat dikatakan perbuatan Sunarti Gaffar dan bank dalam pembuatan APHT dengan memasukan tiga unit ruko milik La Dullah seolah-olah satu kesatuan dengan Sertifikat Hak Milik merupakan benar perbuatan melawan hukum.

Kata Kunci : Perlindungan hukum pihak ketiga, Hak Tanggungan, Lelang

## ABSTRACT

*The aim of the research is to analyze and determine the legal protection of third parties for the ownership rights of some of the auction objects sold both from the perspective of criminal law and civil law as well as the judge's considerations in deciding cases where some of the collateral objects are the property of third parties in the case above based on District Court Decision Number 49/Pdt.G/2021/PN.Kdi. The problem in the research is the legal protection of third parties for the ownership rights of some of the auction objects sold both from the perspective of criminal law and civil law and the judge's consideration in deciding cases where some of the collateral objects are the property of third parties based on Court Decision Number 49/Pdt.G/2021 /PN.Kdi. Normative juridical research type, using the statutory approach, case approach, conceptual approach and using the theory of legal certainty, legal protection theory and supported by the theory of justice. The form of legal protection for third parties regarding the ownership rights of some auction objects based on Court Decision Number 49/Pdt.G/2021/PN.Kdi is to compensate for losses arising from auction minutes whose objects were returned to third parties regarding three shophouse units owned by them, so that the third party got its rights back to the three shophouse units which had been made into one unit with the collateral object Sunarti Gaffar which was auctioned and in Court Decision Number 11/Pdt.G/2020/PN.Dmk the Panel of Judges returned the auction object to the Plaintiff However, after the Court Decision was issued, the auction winner became the injured party because it was not explained in Decision Number 49/Pdt.G/2021/PN.Kdi and Court Decision Number 11/Pdt.G/2020/PN.Dmk to compensate for the losses incurred due to auction minutes whose objects are returned to the Third Party. The panel of judges in Court Decision Number 49/Pdt/2021/PN.Kdi has given the correct decision regarding the unlawful acts committed by Sunarti Gaffar and the bank, in which there was a sale and purchase between Sunarti Gaffar and La Dullah with proof of the Sale and Purchase Deed. Number 156/KKD/AJB/2010, namely the sale and purchase of land in the form of empty land according to the Ownership Certificate Number 00366 belonging to Sunarti Gaffar but does not include the three shophouse units next to it, so it can be said that Sunarti Gaffar and the bank's actions in making the APHT included the three shophouse units owned by La Dullah, as if it were part of the Certificate of Ownership, is truly an unlawful act.*

*Keywords: Third party legal protection, mortgage rights, auction*