

Perlindungan hukum terhadap notaris berkenaan dengan pembuatan akta atas penetapan pengadilan negeri: Putusan Mahkamah Agung Republik Indonesia nomor 1978 K/Pdt/2004 tanggal 11 Oktober 2005 = Legal protection on the notary concerning the making of a certificate upon the state court's decision: Republic of Indonesia supreme court's decision No.1978 K/Pdt/2004 dated October 11th, 2005

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Abstrak

Notaris merupakan pejabat umum yang berwenang membuat akta otentik. Namun dalam prakteknya, seringkali Notaris dijadikan pihak yang terlibat dalam perkara antara kliennya dengan pihak lain dan harus membayar ganti rugi berupa materi. Pokok permasalahannya adalah sudah tepatkah Putusan Mahkamah Agung Republik Indonesia Nomor 1798 K/Pdt/2004 tanggal 11 Oktober 2005 dan perlindungan hukum terhadap Notaris dalam pembuatan akta perseroan berdasarkan penetapan pengadilan. Metode penelitian yang digunakan adalah yuridis normatif dengan jenis data sekunder terdiri atas bahan hukum primer yaitu Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris dan Undang-Undang Nomor 1 Tahun 1995 tentang Perseroan Terbatas, serta Putusan Mahkamah Agung Republik Indonesia Nomor 1798 K/Pdt/2004 tanggal 11 Oktober 2005 antara PT. Prabu Mutu Mulia dengan Betahari Gumay Putra Tusin, PT. Vilabeta Multi Sarana, Aswin Osantana, Notaris Risbert, SH, dan Notaris Fardian, SH. Bahan Hukum Sekunder dari hasil penelitian para ahli hukum dan buku-bukunya yang berkaitan dengan notaris, kedudukan dan fungsinya didalam masyarakat. Alat pengumpulan data dengan studi kepustakaan serta metode pengolahan data dilakukan secara kualitatif sehingga menghasilkan data yang bersifat evaluatif-analitis. Berdasarkan penelitian tersebut dapat disimpulkan bahwa Putusan Mahkamah Agung tidak tepat karena tidak terlihat adanya perbuatan melawan hukum yang dilakukan oleh Notaris yang membuat akta-akta dalam penyelenggaraan RUPS PT. Prabu Mutu Mulia dan sebagai perlindungan hukum terhadap Notaris dilihat dari tiga segi yaitu dari segi prosedur Undang-Undang Republik Indonesia Nomor 1 Tahun 1995 tentang Perseroan Terbatas, dari segi perbuatan melawan hukum, dari segi Notaris menjalankan jabatan. Sebagai saran hendaknya para Notaris dalam menjalankan tugas jabatannya selalu berhati-hati dan aparat penegak hukum pun harus mengerti dan memahami tugas dan wewenang Notaris dalam menjalankan jabatannya.

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A notary is a public official who is authorized to make an authentic certificate. However, in the practical level, the notary often be dropped on to a position as a party involved in a dispute between the client with other party, in which he/she often be pressed to pay a material compensation. The main problem to be addressed is the question on whether the decision of the Supreme Court of Republic of Indonesia No.1798 KJPdt/2004 dated at October 11`h 2005, and the legal protection over the notary in the making of the company's certificate based on a court decision has been appropriate regarding this matter. The research method applied on this research is the juridical normative one, supported by secondary data consisting of primary legal material, namely the Law No. 30 Year 2004 concerning the Notary Office and the Law No.1 Year 1995 concerning Company, as well as the Decision of the Republic of Indonesia's Supreme Court No.1798 KJPdt/2004 dated at October 11lh 2005 between PT.Prabu Mutu Mulia, represented by Betahari

Gumay Putra Tusin, PT. Vilabeta Multi Sarana, represented by Aswin Osantana, a notary named Risbert, SH, and other notary named Fardian, SH. The secondary legal material mentioned gathered from the research products of legal experts as well as the books relevant to the notary matters, including its status and functions in the society. The data processing instrument utilized is the qualitative one, which results in the form of evaluative-analytical data. The research enables us to draw a conclusion that the decision of the Supreme Court is not appropriate due to the absent of any law violation committed by the notary who made the certificates concerning the General Meeting of Stakeholders of PT Prabu Mutu Mulia, as well as regarding to the legal protection over the notary, overviewed from three aspects, namely, the aspect of the procedure of the Republic of Indonesia's Law No.1 Year 1995 concerning a Company, from the aspect of violation to the law, and the aspect of how the notary carrying the duty in his/her position. A recommendation could be suggested is that the notary should be more careful and thorough in carrying his/her duty, while on the other hand, the legal apparatus nonetheless should also understand and comprehend the duty and authority of a notary in duties.