

Tinjauan yuridis terhadap ganti kerugian kekayaan PT. Elnusa, Tbk akibat pencairan deposito berjangka milik PT. Elnusa, Tbk di PT. Bank Mega, Tbk secara melawan hukum oleh pihak lain yang dipidana dengan tindak pidana korupsi = Legal review on compensation upon PT. Elnusa, Tbk due to the unlawfully disbursement of time deposit owned by PT. Elnusa, Tbk in PT. Bank Mega, Tbk by other parties which sentenced for criminal acts of corruption / Nadapdap, Cory Margaretha

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Abstrak

ABSTRAK

Bank adalah suatu institusi yang salah satu tugasnya adalah menghimpun dana dari masyarakat. Dalam pelaksanaan tugasnya tersebut, Bank harus mematuhi peraturan perundang-undang perbankan yang ada, serta menerapkan prinsip-prinsip serta asas-asas perbankan. Dengan kondisi tidak diterapkannya peraturan perundangan, prinsip-prinsip dan asas-asas perbankan pada suatu institusi bank, memberikan peluang timbulnya perbuatan menyimpang dan/atau perbuatan melawan hukum dalam sistem bank tersebut. Dalam praktiknya sering kali timbul maksud dan tujuan untuk melakukan perbuatan secara melawan hukum oleh pegawai bank dalam jabatannya, maka bank seringkali gagal dalam meminimalisir risiko kerugian yang akan ditanggung institusi dan nasabahnya. Kerugian ini tidak hanya ditanggung baik oleh masyarakat perorangan, namun juga sering kali harus ditanggung oleh suatu perusahaan, dan dalam perkembangannya dapat ditanggung pula oleh badan usaha milik negara. Kerugian ini kemudian dianggap merugikan keuangan negara, sehingga diperiksa baik melalui pengadilan negeri untuk memeriksa secara perdata dan melalui pengadilan tindak pidana korupsi untuk memeriksa pelaku perorangannya. Putusan pengadilan seringkali menimbulkan penggantian kerugian keuangan negara yang berganda, sehingga dibutuhkan sistem ganti kerugian yang tepat untuk dapat menyelesaikan permasalahan tersebut.

Penelitian ini bersifat yuridis normatif, dengan metode analisa deskriptif dari data sekunder yang diperoleh.

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ABSTRACT

Bank is an institution that one of its duties is to accomodate public funds. In the performance of its duties, the Bank must comply with the banking rules also the principles and fundamentals of banking. With conditions the principles and fundamentals of banking was not complied in the banking institution, it will provide an incidence of aberrant behaviour and/or an act against the law in the banking system. The existing legislation, together with the fundamentals and principles of banking also the application of good corporate governance and risk management at the bank are expected to help the bank reduce their risk

for the bank its self as well as to its customers in order to carry out its business activities. In practice often arising the intents and objectives to do unlawful act by the banker on her/his position, therefore bank often failed to minimize the risk of loss which will be borne by itself and its customers. This loss is not only borne by the customer as personal, but also often to be borne by the company, and more evolved may be borne by the state-owned company. This loss was considered as a state financial losses therefore was examined either through the district court under civil law and through the court of criminal acts of corruption to examine their individual perpetrator. The court decision often causes a double indemnities of state financial losses, therefore it needs a proper indemnity system to solve the problem.