

Pasal 224 HIR/ 256 RBg sebagai dasar hukum eksekusi grosse akta pengakuan utang di Indonesia

Soroinda, Disriani Latifah, author

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Abstrak

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Titel eksekutorial yang berbunyi "Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa" bukan hanya terdapat dalam putusan pengadilan melainkan dapat ditemukan juga dalam akta otentik sebagaimana dimaksud pasal Pasal 224 HIR/ Pasal 258 RBg yang mengatur mengenai eksekusi grosse akta. Dengan adanya judul eksekutorial, grosse akta mempunyai kekuatan eksekutorial sehingga dapat dilaksanakan atau dieksekusi sebagaimana halnya putusan pengadilan yang berkekuatan hukum tetap. Pada dasarnya grosse akta dimaksudkan untuk kemudahan dalam hal eksekusi apabila terjadi wanprestasi, dengan grosse akta maka kreditur dapat langsung menggunakan hak eksekusinya melalui permohonan eksekusi ke pengadilan tanpa melalui proses gugatan biasa. Namun dalam prakteknya ternyata permohonan penetapan eksekusi grosse akta pengakuan utang yang didasarkan Pasal

224 HIR/ Pasal 258 RBg tidak mudah, dimungkinkan terjadi penolakan pengadilan untuk mengabulkan eksekusi grosse akta pengakuan utang karena berbagai alasan sehingga walau lembaga grosse akta pengakuan utang ini sudah lama ada di Indonesia namun sampai sekarang dengan adanya Undang-Undang No 30 Tahun

2004 tentang Jabatan Notaris tetap masih ada kesimpangsiuran mengenai masalah eksekusi grosse akta pengakuan utang. Adanya penolakan pengadilan terhadap eksekusi grosse akta pengakuan utang menimbulkan ketidakpastian hukum bagi Kreditur; tidak tercapainya kemudahan dalam hal eksekusi grosse akta sebagaimana yang diinginkan. Permasalahan tersebut menyebabkan penulis tertarik untuk meneliti lebih lanjut mengenai permasalahan eksekusi grosse akta pengakuan utang di Indonesia dengan menggunakan penelitian yuridis normatif dan pendekatan deskriptif analitis dengan metode penelitian kepustakaan untuk kemudian menghasilkan data kualitatif.

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ABSTRACT

Executorial title which reads "In The Name of Justice Based on Almighty God" is not only found in court decisions but also found in the notary deed referred to art. 224 HIR /258 RBg called grosse akta. With that title, a grosse akta has executorial power just like court decisions. Basically the function of grosse akta is to facilitate the execution in the event of default, by grosse akta creditor could directly submit executorial application to the court without due process of ordinary lawsuit. However, in practice the application is not happen easily because the courts could refuse to execute grosse akta acknowledgment of debt for various reasons. This issues remains unresolved despite grosse akta acknowledgment of debt already had long existences in Indonesia but there is still confusion about that execution issue even though now we already had Law Number 30/ 2004 Regarding Notary. The court refusal to execute grosse akta acknowledgment of debt would cause a legal uncertainty, the simplicity of execution would be failed and also would raises the question of what is the actual function of a grosse akta acknowledgment of debt. These issues made the

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