

# Pembukaan rahasia bank untuk kepentingan peradilan dalam perkara gugatan harta bersama = Disclosure of bank secrecy in the interests of justice in the case concerning the division of marital property / Agung Kurnia Saputra

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## Abstrak

[Bank sebagai financial intermediary dalam menjalankan kegiatannya bergantung pada kepercayaan nasabah sehingga pada prinsipnya setiap nasabah harus dilindungi kerahasiaan datanya oleh bank, namun begitu, prinsip kerahasiaan bank yang berlaku di Indonesia telah memberi pengecualian bahwa data nasabah dapat diakses untuk kepentingan tertentu. Gugatan pembagian harta bersama berupa aset-aset simpanan di bank pada praktik peradilan ditemukan banyak kendala dalam pembuktian karena berlakunya kerahasiaan bank yang melindungi. Hal demikian tidak jarang berakhir dengan kerugian materiil pada salah satu pihak. Tujuan penelitian ini adalah untuk menganalisis status aset simpanan yang tersimpan di bank atas nama salah seorang suami/istri terkait kepentingan pembagian harta bersama dan apakah suami/isteri memiliki akses atas simpanan tersebut, serta menganalisis apakah setelah Putusan MK No. 64/PUU-X/2012 suami/isteri secara langsung dapat mengakses rahasia bank. Penulisan skripsi ini menggunakan metodologi penelitian yuridis normatif yaitu mengkaji Peraturan Perundang-undangan, teori hukum dan yurisprudensi yang relevan dengan permasalahan yang diteliti. Data penelitian yang dipergunakan meliputi data primer yaitu data yang diperoleh langsung dari lapangan melalui wawancara serta data sekunder yang diperoleh melalui studi kepustakaan. Spesifikasi penelitian ini adalah deskriptif analitis dan metode analisis data dengan yuridis kualitatif. Hasil penelitian menunjukkan bahwa aset simpanan pada bank yang di atasnamakan salah satu pihak (suami/istri) selama dapat dibuktikan diperoleh sepanjang berlangsungnya perkawinan serta perolehannya bersumber dari harta bersama maka berstatus sebagai harta bersama dan manakala terjadi perceraian harus dibagi dua secara adil. Kemudian setelah adanya Putusan MK No. 64/PUU-X/2012 pihak suami/isteri melalui gugatan pembagian harta bersama di Pengadilan dapat memiliki akses membuka rahasia bank, akan tetapi disayangkan setelah Putusan MK tersebut suami/isteri tidak dapat otomatis secara langsung memperoleh akses informasi terhadap harta bersama di bank tanpa adanya gugatan harta bersama melalui Pengadilan.;

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division of marital property assets in the form of bank deposits in judicial practice found many obstacles in the proof because of the bank secrecy that protects. It was thus not uncommon to end up with a material loss on one side. The purpose of this study was to analyze the status of assets stored in bank deposits on behalf of one from the husband / wife related to the division of marital property interests and whether the husband / wife have access to these deposits, and to analyze whether after the Constitutional Court award No.64/PUU-X/2012 husband / wife can directly access bank secrecy. This thesis uses normative research methodology including reviewing legislation, legal theory and jurisprudence relevant to the problems studied. Research data used include primary data which is data obtained directly from the field through interviews and secondary data obtained through the study of literature. Specifications of this study is descriptive and analytical methods of data analysis with qualitative juridical. The results showed that the assets on bank deposits which is assigned to one of the parties (husband / wife) as long as it can be proven obtained throughout the course of the marriage and the deposits came from the joint property, it existed as a marital property and in case of divorce, the marital property should be divided equally. Then, after the Constitutional Court award No.64/PUU-X/2012 the husband / wife through the division of marital property claim in court can have open access to bank secrecy, but unfortunately after the Constitutional Court the husband / wife can not automatically gain access to the information directly to marital property in the bank, without the existence of marital property lawsuit in court., Bank as a financial intermediary in operation dependent on customer confidence so that in principle each customer must be protected by the confidentiality of the data bank, however, the principle of bank secrecy prevailing in Indonesia has given exception that customer data can be accessed for specific interests. Lawsuit division of marital property assets in the form of bank deposits in judicial practice found many obstacles in the proof because of the bank secrecy that protects. It was thus not uncommon to end up with a material loss on one side. The purpose of this study was to analyze the status of assets stored in bank deposits on behalf of one from the husband / wife related to the division of marital property interests and whether the husband / wife have access to these deposits, and to analyze whether after the Constitutional Court award No.64/PUU-X/2012 husband / wife can directly access bank secrecy. This thesis uses normative research methodology including reviewing legislation, legal theory and jurisprudence relevant to the problems studied. Research data used include primary data which is data obtained directly from the field through interviews and secondary data obtained through the study of literature. Specifications of this study is descriptive and analytical methods of data analysis with qualitative juridical. The results showed that the assets on bank deposits which is assigned to one of the parties (husband / wife) as long as it can be proven obtained throughout the course of the marriage and the deposits came from the joint property, it existed as a marital

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