

Penyalahgunaan keadaan misbruik van omstandigheden dan perlindungan hukum bagi para pihak dalam perjanjian (studi kasus putusan Mahkamah Agung Republik Indonesia Nomor 2356 K/PDT/2008 dan Nomor 3091 K/PDT/ 2010) = Abuse of circumstances misbruik van omstandigheden and legal protection for the parties in agreement case study of supreme court of the republic of indonesia no 2356 k pdt 2008 and no 3091 k pdt 2010

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Abstrak

[ABSTRAK

Tesis ini membahas tentang ajaran Penyalahgunaan Keadaan sebagai Alasan Pembatalan Perjanjian dalam Hukum Perjanjian di Indonesia. Meskipun tidak diatur dalam sebuah hukum positif, Ajaran Penyalahgunaan keadaan seringkali ditemukan dan menjadi dasar pada putusan hakim. Lalu bagaimana pengaturan ajaran penyalahgunaan keadaan dalam sistem hukum Indonesia? Tesis ini akan dibahas dengan menggunakan metode penelitian hukum normative dengan analisa norma-norma hukum yang berlaku, yang terdapat dalam peraturan perundangundangan dan juga dalam berbagai putusan pengadilan.

Bahwa dalam Sistem Hukum Indonesia, khususnya dalam peraturan perundangan, tidak dikenal adanya ajaran ataupun adanya pengaturan mengenai Penyalahgunaan Keadaan, yakni sebagai alasan pembatalan perjanjian karena adanya cacat kehendak salah satu pihak dalam membuat suatu perjanjian. Hukum Positif Perjanjian di Indonesia. Namun dalam memutus sebuah perkara, Hakim dapat menemukan hukum dengan didasarkan adanya ajaran hukum yang berkembang, dalam hal ini, Hakim menggunakan ajaran penyalahgunaan keadaan.

Oleh karena itu, perlu adanya pengaturan mengenai penyalahgunaan keadaan dan dengan adanya pengaturan tentang Penyalahgunaan Keadaan, maka Hakim dalam memutus dan mengadili perkara memiliki keseragaman akan syarat-syarat yang termasuk atau tergolong kepada Penyalahgunaan Keadaan

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ABSTRACT

This thesis discusses of Abuse of Circumstances Doctrine as a reason of the annulment of agreement in Contract Law in Indonesia. Although the doctrine not regulated, it often found in judge verdict. Then, what legal basis for the doctrine in Indonesia law system? This thesis will be discussed by using research methods to analyze the law-norms, which is found in a legislation and also in various verdict.

The Indonesian law system, in particular legislation, has not been regulated the doctrine of the abuse of circumstances, hence, the reason for the annulment of the contract by a party who did not full-freely act in a contract. Yet in a matter decided, the Judge can find the law to be based legal developed, in this case, the judge uses the doctrine of abuse of circumstances.

Therefore, there should be arrangements regarding abuse of the circumstances doctrine into a regulation, so the judge in the verdict and will have consistency conditions that include or belong to the abuse of circumstances; This thesis discusses of Abuse of Circumstances Doctrine as a reason of the annulment of agreement in Contract Law in Indonesia. Although the doctrine not regulated, it often found in judge verdict. Then, what legal basis for the doctrine in Indonesia law system? This thesis will be discussed by using research methods to analyze the law-norms, which is found in a legislation and also in various verdict.

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