

Tinjauan hukum terhadap kedudukan perjanjian kerja sama operasi pertambangan batubara yang dilakukan oleh pihak yang tidak memiliki alas hak = Legal review over state of cooperation agreement of coal mining undertaken by the party who does not have entitlement basis

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Abstrak

[ABSTRAK

Tesis ini membahas mengenai kedudukan Perjanjian Kerja Sama Operasi Pertambangan Batubara antara PT Y dan CV X yang mana kerja sama pertambangan batubara tersebut dilakukan di wilayah izin usaha pertambangan yang menjadi hak PT X (dahulu dikenal dengan CV X). Penelitian ini dilakukan karena keberadaan Perjanjian Kerja Sama Operasi Pertambangan Batubara tidak memenuhi dan bertentangan dengan ketentuan peraturan perundangan yang berlaku. Selain itu, dengan ditandatanganinya Perjanjian Kerja Sama Operasi Pertambangan Batubara oleh salah satu pemegang saham PT X, salah satu pemegang saham PT X yang mewakili CV X (i) telah tidak beritikad baik dalam pelaksanaan Share Sale and Purchase Agreement; dan (ii) telah melakukan tindakan wanprestasi terhadap salah satu pernyataan dan jaminan pemegang saham PT X (penjual saham) di dalam Share Sale and Purchase Agreement. Share Sale and Purchase Agreement merupakan salah satu perjanjian terkait dengan jual beli atau pengambilalihan saham pada PT X oleh BHS Ltd. selaku investor asing. Sehingga, di dalam penelitian ini juga dilakukan kajian terhadap perjanjian yang terkait dengan jual beli saham PT X dalam memenuhi peraturan perundang-undangan yang berlaku. Penulisan tesis ini merupakan penelitian yuridis normatif, yaitu dalam hal ini penelitian terhadap asas-asas hukum dan taraf sinkronisasi hukum. Sedangkan, analisa dalam penelitian ini dilakukan secara kualitatif dengan memilih pasal-pasal yang terdapat dalam Perjanjian Kerja Sama Operasi dan Share Sale and Purchase Agreement dan peraturan perundang-undangan terkait sesuai dengan ruang lingkup permasalahan penelitian ini kemudian melakukan penelusuran terhadap teori dan asas-asas hukum sehubungan dengan hal tersebut.

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ABSTRACT

This thesis focuses on the state of Cooperation Agreement of Coal Mining between PT Y and CV X on which the cooperation of coal mining is conducted on mining permit area possessed by PT X (formerly known as CV X). This research is conducted due to the existence of Cooperation Agreement of Coal Mining does not fulfill and is in conflict with prevailing laws. In addition, by signing the Cooperation Agreement of Coal Mining by a shareholder of PT X representing CV X, the shareholder of PT X (i) has not been in a good faith in implementing the Share Sale and Purchase Agreement; and has been in default over one of representations and warranties of shareholders of PT X (shares seller) under the Share Sale and Purchase Agreement. The Share Sale and Purchase Agreement represents an agreement in relation to the purchase or acquisition of shares on PT X by BHS Ltd. as foreign investor. Accordingly, in this study, it is also conducted study on agreements relating to purchase of shares on PT X whether it fulfils the prevailing laws. This research is normative juridical research which is the research conducted on legal principles and legal synchronization. Whereas, analysis in this research is conducted in a qualitative by selecting articles in

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