

# Pengecualian rahasia bank dalam pembagian harta bersama setelah perceraian berdasarkan hukum yang berlaku di Indonesia (analisa putusan mahkamah konstitusi Nomor 64/PUU-X/2012 = The exception of bank secrecy through divide the marital assets after divorcement based on the law that applied in Indonesia analysis the constitutional court decision No 64/PUU-X/2012) / Asa Kusuma Winahyu

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## Abstrak

[Lembaga Perbankan adalah suatu lembaga yang sangat bergantung kepada kepercayaan masyarakat. Salah satu hal yang dapat meningkatkan kepercayaan masyarakat kepada bank adalah dengan adanya peraturan mengenai rahasia bank. Undang-Undang Nomor 10 Tahun 1998 telah mengatur beberapa pengecualian rahasia bank. Pengecualian yang telah diatur tersebut dianggap belum melindungi kepentingan masyarakat secara keseluruhan, hal tersebut karena belum diaturnya pengecualian rahasia bank dalam perkara pembagian harta bersama. Oleh karena itu, penulis ingin mengetahui apakah ketentuan rahasia bank dalam Undang-Undang Perbankan dalam pelaksanaannya telah melindungi kepentingan pihak bank, nasabah penyimpan dan pasangannya serta bagaimana implikasi hukum yang berlaku bagi pihak bank setelah dikeluarkannya Putusan Mahkamah Konstitusi nomor 64/PUU-X/2012. Bentuk penelitian ini adalah penelitian hukum normatif dengan tipologi penelitian deskriptif analitis. Jenis data yang digunakan adalah data sekunder, teknik pengumpulan data yang digunakan adalah dengan cara studi kepustakaan dan wawancara, kemudian analisis data dilakukan dengan pendekatan kualitatif. Dari hasil penelitian, diperoleh kesimpulan yaitu ketentuan rahasia bank yang telah diatur dalam Undang-Undang Perbankan saat ini hanya melindungi kepentingan pihak bank dan nasabah penyimpan, tetapi tidak untuk pasangan nasabah penyimpan, hal ini karena belum diaturnya ketentuan mengenai pengecualian rahasia bank dalam hal pembagian harta bersama. Dengan adanya Putusan Mahkamah Konstitusi Nomor 64/PUU-X/2012, maka pengecualian rahasia bank diluar Undang-Undang Perbankanpun bertambah. Namun, belum dikeluarkannya peraturan tertulis yang jelas oleh Otoritas Jasa Keuangan dalam pelaksanaan putusan tersebut, menimbulkan kebingungan di masyarakat dan dunia perbankan.;

Banking institution is an institution that is highly dependent on public trust. One of the things that increase trust is the lack of legislation regarding bank secrecy. Banking Act number 10 of 1998 has regulated about the exceptions of bank secrecy. The exception that regulated considered does not protect the interest all of people, it is because the exception of bank secrecy in the case to divide the marital assets does not arrange. Therefore, the authors wanted to know bank secrecy provisions that has regulated in Banking Act has been protect the interests of the bank, depositors, and their partner or not, and then the implication that applicable for the bank after the constitutional court decision number 64/PUUX/2012. The form of the research is a normative research with descriptive analytical research typology. Type of data used are secondary data. Data collection techniques used, namely through the study of literature, for further analysis on the issues by using data analysis with qualitative approach. From the research, obtained the conclusion to answer the problem, namely the bank secrecy that had regulated in the

Banking Act has already protect the bank and depositors interests, but it does not protect for the partner of the depositors interest, this is because the exception of bank secrecy which concern about the marital assets after divorcement doesn't arrange. After the constitutional court decision no. 64/PUU-X/2012, the exclusion of bank secrecy increased. However, because of Otoritas Jasa Keuangan have not made a regulation regarding the implementation of that court constitutional court decision, it can cause confusion in the public and in the banking world., Banking institution is an institution that is highly dependent on public trust. One of the things that increase trust is the lack of legislation regarding bank secrecy. Banking Act number 10 of 1998 has regulated about the exceptions of bank secrecy. The exception that regulated considered does not protect the interest all of people, it is because the exception of bank secrecy in the case to divide the marital assets does not arrange. Therefore, the authors wanted to know bank secrecy provisions that has regulated in Banking Act has been protect the interests of the bank, depositors, and their partner or not, and then the implication that applicable for the bank after the constitutional court decision number 64/PUUX/2012. The form of the research is a normative research with descriptive analytical research typology. Type of data used are secondary data. Data collection techniques used, namely through the study of literature, for further analysis on the issues by using data analysis with qualitative approach. From the research, obtained the conclusion to answer the problem, namely the bank secrecy that had regulated in the Banking Act has already protect the bank and depositors interests, but it does not protect for the partner of the depositors interest, this is because the exception of bank secrecy which concern about the marital assets after divorcement doesn't arrange. After the constitutional court decision no. 64/PUU-X/2012, the exclusion of bank secrecy increased. However, because of Otoritas Jasa Keuangan have not made a regulation regarding the implementation of that court constitutional court decision, it can cause confusion in the public and in the banking world.]