

Keberlakuan perjanjian diam-diam silent agreement dalam hukum perdata Indonesia dan penerapannya dalam putusan pengadilan studi kasus putusan Mahkamah Agung Republik Indonesia no. 2178/K PDT/2008 dan putusan Mahkamah Agung Republik Indonesia no. 1023/K PDT/2011 = Applicability of silent agreement in indonesia s civil law and the implementation of court decisions study cases putusan Mahkamah Agung Republik Indonesia no. 2178/K PDT/2008 dan putusan Mahkamah Agung Republik Indonesia no.1023/K PDT/2011

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Abstrak

[Dalam kehidupan sehari-hari, kehidupan masyarakat sangat erat kaitannya dengan perjanjian. Namun tidak banyak masyarakat yang tahu bahwa perjanjian merupakan suatu perbuatan hukum yang memiliki konsekuensi hukum bagi para pihak yang melakukannya. Perjanjian secara hukum diatur di dalam Buku Ke III Kitab Undang-undang Hukum Perdata pada bab berjudul "Tentang Perikatan". Perjanjian memiliki aspek dengan berbagai macam aspek teori yang luas di dalamnya yang kemudian membentuk unsur-unsur, hingga syarat bagaimana dikatakan sah. Salah satu teori ada di dalam Kitab Undang-undang Hukum Perdata dan berkembang adalah yaitu teori perjanjian diam-diam (Silent Agreement). Eksistensi dan keberadaan Silent Agreement memang ada dan diatur di dalam Hukum Perdata Indonesia. Namun sayangnya hal ini tidak diatur secara eksplisit dan mendasar, hingga kerap kali penggunaannya dalam keperluan hukum, Berdasarkan permasalahan tersebut maka permasalahan yang akan diteliti oleh penulis dalam skripsi ini adalah bagaimana pengaturan secara umum tentang perjanjian secara umum di dalam Buku ke-III Kitab Undang-undang Hukum Perdata, bagaimana pengaturan tentang perjanjian diam-diam dalam Hukum perdata Indonesia, dan penerapan teori perjanjian diam-diam (Silent agreement) di dalam gugatan pada putusan Mahkamah Agung Republik Indonesia No. 2178 K/Pdt/2008 Dibandingkan dengan putusan Mahkamah Agung Republik Indonesia No. 1023 K/Pdt/2011; In daily life, the society's life has the closest connection with agreement. However not many people know that agreement is a legal action which has legal consequence for the parties who do it. Agreement is legally regulated in the Book III of Civil Code in a chapter with the title "About Contract." Agreement has aspects with various aspects of the comprehensive theory in it which later formed elements, including requirement in order to be said valid. One of the available and growing theories in the Civil Code is the theory of Silent Agreement (Perjanjian Diam-Diam). The existence of Perjanjian Diam-Diam is existed and regulated under the Indonesian Civil Law. Unfortunately, this matter is not explicitly and fundamentally regulated, so that most of the time its usage in legal purpose, either

used in an argument of lawsuit or anything else, becomes inappropriate. Based on such issue then the problems that will be researched by the author in this undergraduate thesis are on how the regulation in general regulated the agreement in Book III of Civil Code, how the regulation on silent agreement is regulated by Indonesian Civil Law, and the applicability of silent agreement (Perjanjian Diam-Diam) theory in the lawsuit of the Supreme Court Decision of the Republic of Indonesia No. 2178 K/Pdt/2008 compared with the Supreme Court Decision of the Republic of Indonesia No.1023 K/Pdt/2011, In daily life, the society's life has the closest connection with agreement. However

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