

Penerapan asas subrogasi dalam marine cargo insurance: studi kasus: putusan pengadilan negeri no. 586/Pdt.G/2014/PN.SBY = The implementation of the subrogation principle in marine cargo insurance: case study: putusan pengadilan negeri no. 586/Pdt.G/2014/PN.SBY

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Abstrak

ABSTRACT

Prinsip subrogasi adalah salah satu prinsip penting dalam hukum asuransi, khusus nya dalam Marine Cargo Insurance. Skripsi ini akan membahas ketentuan perundangan subrogasi di Indonesia dan perbandingannya dengan Negara Belanda dan Amerika Serikat, kapan perusahaan asuransi mendapatkan hak subrogasinya, juga penerapan prinsip subrogasi itu sendiri dalam perkara antara PT. AXA Indonesia melawan PT. Salam Pasific Indonesia Lines dan Raetsasia P I Services Pte.Ltd, dalam putusan tingkat pertama dan tingkat banding, yaitu putusan atas ganti rugi tenggelamnya muatan kapal yang dimiliki oleh Tertanggung. Metode penelitian yang dipakai adalah Yuridis-normatif dimana penelitian didasarkan pada peraturan perundang-undangan, konsep dan studi kasus. Dari analisa dan perbandingan yang telah dilakukan, dapat dilihat bahwa prinsip subrogasi belum diterapkan dengan baik oleh Majelis Hakim Pengadilan Negeri. Oleh karena itu, diperlukan adanya pengaturan subrogasi yang lebih baru dan terperinci, selain itu wawasan hakim terkait prinsip dasar asuransi perlu dikembangkan agar hukum asuransi bisa berjalan sesuai dengan tujuannya.

ABSTRACT

Subrogation principle is one of the most important principles in insurance law, especially in marine cargo insurance. In this research, I will elaborate the regulations of subrogation in Indonesia and how it compared to the regulation of other countries such as Netherlands and United States of America, and when the insurance company will get its subrogation rights. Furthermore, I will explain about whether the principle of subrogation has been implemented correctly or not by the judges in case between PT. AXA Indonesia v. PT. Salam Pasific Indonesia Lines and Raetsasia P I Services Pte.Ltd. The case itself is a marine cargo related dispute. The research method used in this research is juridical normative, which will be based on the regulations, the concept and a study case. This research came with a conclusion that principle of subrogation has not been well implemented by the judges in this present case. Therefore, I suggest that Indonesia have to make a new detailed regulation for subrogation and need to improve its judge rsquo s knowledge and ability on the insurance law, especially with the basic principles.