

Analisis kepastian hukum terhadap penyelesaian kredit bermasalah pada bank badan usaha milik negara pasca putusan mahkamah konstitusi nomor 62/PUU-XI/2013 = Analysis of legal certainty of non performing loan on state owned bank post constitutional court decision number 62/PUU-XI/2013

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Abstrak

Skripsi ini didasarkan pada Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 yang mengukuhkan status kekayaan negara yang bersumber dari keuangan negara dan dipisahkan dari APBN untuk disertakan menjadi penyertaan modal BUMN tetap menjadi bagian dari rezim keuangan negara. Penelitian ini membahas dua permasalahan utama. Pertama, implikasi yuridis Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 terhadap status hukum piutang kredit bermasalah bank BUMN. Kedua, mekanisme penyelesaian kredit bermasalah pada Bank BUMN pasca Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013. Skripsi ini menggunakan metode penelitian yuridis normatif, yaitu dengan tipe penelitian deskriptif analitis.

Hasil penelitian menunjukkan bahwa Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 membuat adanya perbedaan penafsiran akan status hukum kredit bermasalah bank BUMN. Dengan demikian, Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 membuat terciptanya ketidakpastian akan status hukum kredit bermasalah bank BUMN serta membuat kewenangan pengurusan dalam penyelesaian kredit bermasalah tidak sepenuhnya menjadi kewenangan Bank BUMN terutama dalam hal mekanisme penyelesaian kredit bermasalah melalui hapus tagih. Untuk itu, diperlukan sinkronisasi dan harmonisasi pemikiran, penafsiran serta pengaturan akan pengertian serta ruang lingkup keuangan negara dalam peraturan perundang-undangan agar dapat menciptakan kepastian hukum bagi status serta mekanisme penyelesaian kredit bermasalah pada Bank BUMN. Selain itu, diperlukan pula peraturan perundang-undangan yang secara khusus mengatur tentang kewenangan bagi bank BUMN dalam penyelesaian dan penghapusan kredit bermasalah sehingga nantinya bank BUMN dapat melaksanakan mekanisme penyelesaian kredit bermasalah dengan mekanisme korporasi yang dapat meningkatkan kinerja bank BUMN agar dapat berada di level of playing field yang sama dengan bank-bank swasta.

<hr>This thesis is based on the Decision of the Constitutional Court Number 62 / PUU-XI / 2013 which confirms the status of state assets originating from state finances and separated from the state budget to be included in the equity participation of state-owned enterprises which remain part of the state financial regime. This study addresses two main problems. First, the juridical implications of the Decision of the Constitutional Court Number 62 / PUU-XI / 2013 on the legal status of accounts receivable (non-performing loans) of state-owned banks. Second, the mechanism for resolving non-performing loans at State-Owned Banks after the Decision of the Constitutional Court Number 62 / PUU-XI / 2013. This thesis uses a normative juridical research method, ie the research refers to positive law or written legal norms.

The results of the study indicate that the Decision of the Constitutional Court Number 62 / PUU-XI / 2013

made a difference in the interpretation of the legal status of non-performing loans of state-owned banks. Thus, the Constitutional Court Decision Number 62 / PUU-XI / 2013 made uncertainty about the legal status of non-performing loans of state-owned banks and made the authority to manage non-performing loans not entirely under the authority of state-owned banks, especially in the mechanism of resolving non-performing loans through hair cut. For this reason, synchronization and harmonization of thought, interpretation and regulation of the understanding and scope of state finances are needed in legislation so that legal certainty can be created for the status and mechanism for resolving non-performing loans at state-owned banks. In addition, legislation is needed which specifically regulates the authority of state-owned banks in the settlement and elimination of non-performing loans so that later state-owned banks can implement the mechanism for solving non-performing loans with a corporate mechanism that can improve the performance of state-owned banks to be at the level of playing the same field as private banks.