

Penjualan saham dengan hak membeli kembali atas saham perseroan terbatas terbuka (studi kasus putusan Pengadilan Negeri Jakarta selatan nomor 618/pdt.g/2016/pn jkt.sel.) = Disposition of shares with repurchase right of shares of public company (case study of south Jakarta court ruling number 618/pdt.g/2016/pn jkt.sel)

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Abstrak

<b>ABSTRAK</b><br>

Tesis ini membahas mengenai pengalihan benda khususnya saham dan konsep kepemilikannya dalam hal menjadi objek dalam perjanjian jual beli dengan hak membeli kembali. Dalam jual beli saham dengan hak membeli kembali di pasar modal penjualan saham dengan hak membeli kembali disebut dengan Repurchase Agreement (Repo) yang yang pengaturan mengenai pedoman transaksi Repo diatur dalam Peraturan Otoritas Jasa keuangan tentang Repo. Pada kenyataannya, perjanjian Repo dianggap sebagai suatu pemberian jaminan, sedangkan secara prinsipnya berbeda. Perbedaan tersebut dapat memberikan konsep kepemilikan atas benda khususnya saham yang dijual dengan hak membeli kembali. Permasalahan yang muncul dari perjanjian Repo yaitu seperti apa yang terjadi dalam kasus pada Putusan Pengadilan Negeri Jakarta Selatan Nomor 618/Pdt.G/2016/PN Jkt.Sel di mana pihak yang membeli dalam perjanjian Repo menjual kepada pihak ketiga, namun dalam putusannya majelis hakim memutuskan bahwa pihak ketiga yang membeli dari pembeli awal dalam perjanjian Repo melakukan perbuatan melawan hukum. Hal tersebut secara otomatis dapat memberikan peluang untuk terjadinya konflik hukum. Perbuatan Pembeli awal yang telah mengalihkan objek

dalam perjanjian Repo  
sehingga penjual awal dalam perjanjian  
Repo merasa dirugikan karena haknya untuk membeli kembali tidak bisa dilakukan

Penelitian ini adalah penelitian normat  
if dengan sifat penelitian deskriptif analitis. Jenis  
data yang digunakan adalah data sekunder dengan analisis data pendekatan kualitatif.

Dalam hal ini,  
pihak ketiga yang membeli saham dari pembeli awal dalam perjanjian

Repo  
merupakan pihak yang  
perlu  
men  
dapatkan perlindungan  
dan kepastian  
hukum di  
muka pengadilan

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<b>ABSTRACT</b><br>

This thesis covers the anal  
ysis of disposition of comercial objects, especially  
stocks/shares, and the concept of its ownership in terms of being the stated object in a  
sale-purchase agreement with right to repurchase as one of the agreements conditions.  
The term for sale-purchase  
agreement with right to repurchase, in which stocks/shares  
as the object, is called Repurchase agreement (Repo) where the regulation of its  
enforcement procedures or guideline is stipulated in The Financial Services Authority  
Regulation concerning Guidelin  
e of Repurchase Agreement Transaction For Financial  
Services Institution. Practically speaking, it is not uncommon that many has considered  
Repo Agreement as an attachment of collateral, whilst in the manner of its principle,  
Repo is different from the con  
cept of collateral attachment.

From that difference, in  
which it will be covered in this thesis, can it be understood the concept of ownership of  
comercial objects (especially stocks/shares) which is determined as the object being  
sold with repurchase righ  
t. In South Jakarta district court verdict number  
618/Pdt.G/2016/PN Jkt.Sel where the party that purchased stocks in Repo Agreement,  
related to the case in that verdict, disposed that purchased stocks to third party (parties  
outside the Repo), yet in the v  
erdict, the judges stated that the third party had committed

tort or unlawful deed. It can automatically emerge the chance of legal conflicts. The deed of the party that purchased and then sold the stocks to third party that was not included in the Repo caused used the commercial damage to the party that sold the stocks in the Repo because by then the selling party in the Repo could not use his repurchase right (his right had been violated). This research/thesis is a normative research by the nature of descriptive analytical research. This thesis uses secondary data with qualitative data analysis approach or method. Regarding that third party in the said Repo, it is author's opinion that the third party should be provided with legal protection and certainty before the court.