

Perlindungan bagi para pemegang saham yang belum tercatat pada daftar pemegang saham akibat pengabaian kewajiban pemeliharaan daftar pemegang saham oleh organ perseroan: studi kasus putusan Mahkamah Agung Republik Indonesia nomor 2845 K/Pdt/2017 = Legal protection for shareholders which have not been registered in the shareholders register due to the negligence of the organ of the company on the obligation to maintain the shareholders register: case study on Supreme Court decision number 2845 K/Pdt/2017

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Abstrak

Peraturan perundang-undangan di Indonesia tidak memuat aturan yang jelas mengenai perlindungan penerima hak waris atas saham yang dirugikan akibat pengabaian kewajiban pencatatan pemegang saham pada Daftar Pemegang Saham Perseroan oleh direksi perseroan. Hal ini tentu memicu permasalahan, salah satunya tercermin dalam perkara Putusan Mahkamah Agung Nomor 2845K/PDT/2017. Pokok pembahasan dalam tesis ini adalah mengenai kedudukan saham yang dimiliki oleh penerima hak waris atas saham yang belum dicatatkan pada Daftar Pemegang Saham perseroan, tanggung jawab direksi dan dewan komisaris perseroan terhadap kerugian penerima hak waris atas saham yang tidak tercatat dalam Daftar Pemegang Saham perseroan, dan peran notaris terkait legalitas pemindahan hak atas saham karena pewarisan. Tesis ini merupakan penelitian yuridis normatif yang menggunakan data sekunder untuk menganalisis permasalahan. Hasil penelitian menunjukkan bahwa penerima hak waris atas saham berhak menuntut perseroan untuk melaksanakan pencatatan namanya pada Daftar Pemegang Saham perseroan. Adapun pertanggungjawaban direksi dan dewan komisaris perseroan atas kerugian penerima hak waris atas saham dapat dituntut penerima hak waris atas saham dengan mengajukan gugatan perbuatan melawan hukum.

.....The laws and regulations in Indonesia do not stipulate the issue of protection to the inheritors that receive an assignment of shares and subsequently suffered a loss due to the board of directors negligence to its obligation to register inheritors name at Shareholders Register of the company. This issue indeed triggers a dispute, one of which is reflected in a case under Supreme Court Decision No. 2845K/PDT/2017. This thesis will discuss about the status of shares owned by the inheritors which have not been registered under the Shareholders Register, the liability of the board of directors and board of commissioners of the company over the loss of the inheritors, and the role of the notary in regards to the legality of the transfer of shares due to inheritance. This study is conducted with a juridical-normative approach and uses secondary-type data in analyzing the issues. The result of this study shows that the inheritors that receive an assignment of shares are entitled to claim for their names to be registered under the Shareholders Register. Further, the liability of the board of directors and the board of commissioners of the company could be sued by the inheritors by filing a lawsuit with the grounds of unlawful actions.