

Perlindungan Hukum Bagi Para Pihak Berkaitan Dengan Kesepakatan Perdamaian Yang Dibuat Berdasarkan Penyalahgunaan Keadan (Studi Putusan Pengadilan Negeri Dumai Nomor 43/Pdt.G/2019/PN Dum) = Legal Protection For The Parties Related To The Peace Agreement Made Based On An Undue Influence (Study Of Dumai District Court Decision Number 43/Pdt.G/2019/PN Dum)

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Abstrak

Majelis Hakim Pengadilan Negeri Dumai dalam Putusan Nomor 43/Pdt.G/2019/PN Dum memberikan pertimbangan bahwa kesepakatan perdamaian yang dibuat di dalam tahanan tetap sah dan mengikat para pihak. Keadaan ditahannya seseorang mengakibatkan tidak dapat bergerak bebas. Maka telah terjadi ketidakseimbangan posisi dan prestasi diantara para pihak. Perlindungan hukum menjadi hal penting baik untuk pihak yang posisinya lemah maupun pihak yang diikutsertakan ke dalam perkara hanya karena menjalankan jabatannya. Permasalahan yang akan diangkat dalam penelitian ini mengenai penyalahgunaan keadaan menjadi alasan pembatalan berkaitan dengan putusan Pengadilan Negeri Dumai Nomor 43/Pdt.G/2019/PN dan perlindungan hukum bagi pihak-pihak dalam perkara tersebut. Guna menjawab permasalahan tersebut digunakan metode penelitian yuridis normatif dengan tipologi penelitian eksplanatoris. Hasil analisis diperoleh bahwa majelis hakim kurang tepat dalam menerapkan hukum. Hal ini dapat ditinjau berdasarkan syarat penyalahgunaan keadaan dan asas-asas hukum perjanjian khususnya asas keseimbangan, asas kepatutan, dan asas konsensualisme. Perlindungan hukum bagi pihak yang dirugikan yaitu dapat mengajukan tuntutan hak berupa gugatan ke pengadilan. Notaris secara langsung terlindungi karena hanya bertanggung jawab mendaftarkan akta dibawah tangan dalam buku khusus. Perkara pembatalan perjanjian memiliki korelasi dengan perkara KDRT, maka perlindungan bagi salah satu pihak dalam kesepakatan perdamaian yang juga menjadi korban KDRT berupa perlindungan dari pihak-pihak berwenang, pelayanan kesehatan dan bimbingan rohani, serta pendampingan dalam proses pemeriksaan. Seharusnya hakim dalam memutus perkara tidak hanya berpedoman pada KUHPdata saja, melainkan harus melihat sumber hukum lain. Notaris dalam menjalankannya jabatannya wajib menerapkan prinsip kehati-hatian sekalipun hanya melakukan waarmeding

.....The Dumai District Court's Panel of Judges in Decision Number 43/Pdt.G/2019/PN Dum gave consideration which was the peace agreement made in detention remains valid and bind the parties. The state of a person in detention caused them to be unable to move freely. The result of the circumstances creates an imbalance of position and achievement between the parties. Legal protection becomes important both for parties whose positions are weak and those who participate in the case just because they are fulfilling their positions. The problems that will be appointed in this research concerning the circumstances as the reason related to the decision of the Dumai District Court Number 43/Pdt.G/2019/PN and legal protection for the parties of the case. In order to answer these problems, a normative juridical research method with an explanatory research typology is used. The results of the analysis show that the panel of judges is less accurate in applying the law. This can be reviewed according to the conditions and principles of the agreement law, especially as a balance, the principle of propriety, and the principle of agreement.

Legal protection for the aggrieved party is enabling them to file a claim for rights in the form of a lawsuit to the court. Notaries are directly protected because they are only responsible for registering under-handed deeds in a special book. The case of cancellation of the agreement has a correlation with the case of domestic violence, so the protection for one of the parties in the peace agreement who is also a victim of domestic violence is in the form of a protection from the authorities, health services and spiritual guidance, as well as assistance in the examination process. The Judges should not only be guided by the Code Civil in deciding cases, but must also view other sources of law. Notaries in carrying out their positions must apply the precautionary principles, even if it's only carrying out waarmedking. People making agreements should be made in the form of an authentic deed in order to have perfect evidentiary power.