

Tanggung Gugat Direksi Perusahaan dan Notaris atas Akta Perjanjian Kerjasama yang Ditandatangani tanpa Surat Kuasa dalam Perkara Pailit (Studi Putusan MA No. 723K/Pdt.Sus-Pailit/2020) = The Liability of the Company's Board Directors and Notary for the Cooperation Agreement Deed which was Signed Without a Power of Attorney in the Bankruptcy Case (Case Study of MA Decision No. 723K/Pdt.Sus-Pailit/2020)

Vivy Julianty, author

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Abstrak

Penelitian ini berfokus pada perjanjian kerjasama yang ditandatangani tanpa surat kuasa karena dalam kenyataannya sering memunculkan sengketa. Sebagaimana kasus dalam Putusan MA No. 723K/Pdt.Sus-Pailit/2020, di mana ditemukan penggunaan kuasa dibawah tangan oleh perusahaan yang mengatasnamakan direksi yang kemudian disalahgunakan oleh oknum yang tidak bertanggung jawab. Permasalahan yang diangkat dalam penelitian ini adalah kedudukan akta perjanjian kerjasama yang ditanda tangani tanpa adanya surat kuasa direksi dan tanggung gugat direksi perusahaan dan notaris atas perjanjian kerjasama tanpa surat kuasa menurut ketentuan dalam Undang-Undang Perseroan Terbatas (UUPT) dan Undang-Undang Jabatan Notaris (UUJN). Penelitian yuridis normatif ini dilakukan untuk mengumpulkan data sekunder melalui studi dokumen (kepuustakaan) yang selanjutnya dianalisis secara kualitatif. Dari hasil analisis dapat dikemukakan bahwa akta yang ditandatangani tanpa surat kuasa tersebut tidak memenuhi syarat subjektif di mana suatu akta diharuskan memiliki kekuatan pembuktian sempurna, oleh karena itu akta tersebut tidak sah dan tidak mengikat yang mengakibatkan akta tersebut dapat dibatalkan. Selain itu mengenai tanggung gugat direksi dan notaris ditemukan bahwa direksi memiliki tanggung jawab penuh secara pribadi terhadap kerugian perseroan apabila terbukti bersalah atau lalai dalam menjalankan tugasnya dan notaris dapat diminta pertanggungjawaban berupa sanksi administratif, sanksi perdata, dan sanksi pidana.

.....This study focuses on cooperation agreements signed without a power of attorney because in reality they often lead to disputes. As is the case in Supreme Court Decision No. 723K/Pdt.Sus-Pailit/2020, where it was found that the use of power under the hands of a company on behalf of the board of directors was later misused by irresponsible persons. The problem raised in this study is the position of the cooperation agreement deed which was signed without a power of attorney of the board of directors and the accountability of the company's directors and notaries for the cooperation agreement without a power of attorney according to the provisions of the Limited Liability Company Law (UUPT) and the Notary Position Act (UUJN). This normative juridical research was conducted to collect secondary data through document study (library) which was then analyzed qualitatively. From the results of the analysis, it can be stated that the deed signed without a power of attorney does not meet the subjective requirements where a deed is required to have perfect evidentiary power, therefore the deed is invalid and non-binding which causes the deed to be cancelled. In addition, regarding the accountability of the directors and notaries, it was found that the directors have full personal responsibility for the company's losses if proven guilty or negligent in carrying out their duties and the notary can be held accountable in the form of administrative sanctions, civil

sanctions, and criminal sanctions.