

Keberlakuan Doktrin Vicarious Liability Terhadap Tanggung Jawab Calon Notaris Dalam Pembuatan Akta (Studi Putusan Kasasi Nomor 134K/PID/2020) = The Applicability of the Vicarious Liability Doctrine to the Responsibilities of Notaries Candidate in Making Deeds (Study of Cassation Decision Number 134K/PID/2020)

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Abstrak

Wajib magang merupakan persyaratan menjadi notaris. Permasalahan dapat terjadi ketika seorang Calon Notaris dalam mengerjakan tugasnya melakukan kesalahan yang menimbulkan kerugian bagi pihak ketiga. Penelitian ini mengangkat kasus yang terjadi dalam Putusan Kasasi Mahkamah Agung Nomor 134K/PID/2020, dimana seorang Calon Notaris dalam menjalankan tugasnya membantu Notaris untuk menerbitkan Akta Pernyataan Keputusan Rapat yang didasari oleh Berita Acara Rapat yang tanda tangannya palsu. Permasalahan dalam penelitian ini terkait dengan tanggung jawab Notaris dalam pembuatan Akta Pernyataan Keputusan Rapat, dan keberlakuan doktrin Vicarious Liability terhadap tanggung jawab Calon Notaris dalam pembuatan Akta Pernyataan Keputusan Rapat. Penelitian ini dianalisis menggunakan metode penelitian yuridis normatif. Hasil penelitian, ditemukan bahwa Notaris memiliki tanggung jawab penuh terhadap Akta yang dibuatnya. Dalam kasus ini Notaris turut bertanggung jawab atas kesalahan bawahannya, berdasarkan doktrin Vicarious Liability. Meskipun Calon Notaris memiliki kualitas dan kapasitas intelektual untuk mengetahui bahwa perbuatannya adalah melanggar hukum, seharusnya Calon Notaris dapat berlindung di bawah doktrin Vicarious Liability karena ketidak seimbangan posisi antara Calon Notaris dan Notaris, kurangnya perlindungan hukum dan tidak adanya upah dalam hubungan hukum antara Notaris dan Calon Notaris dalam magang. Notaris harus memastikan bahwa pekerjaan yang dikerjakan oleh bawahannya sesuai dengan standar yang ditetapkan UUJN dan tidak melanggar hukum. Dalam kualitas dan kapasitas Calon Notaris sebagai pihak yang membantu Notaris, Calon Notaris seharusnya mendapatkan perlindungan hukum untuk melindungi masa depan dan karir Calon Notaris tersebut.

.....Internship is a compulsory requirement to become a notary. Problems can occur when a Notary Candidate in carrying out his duties makes mistakes that cause losses to third parties. This study raises the case that occurred in the Supreme Court's Cassation Decision Number 134K/PID/2020, where a Notary Candidate in carrying out his duties assists the Notary in issuing the Deed of Statement of Meeting Resolutions based on the Minutes of Meeting whose signature is fake. The problem in this study is related to the responsibilities of the Notary in making the Deed of Statement of Meeting Resolutions, and the application of the Vicarious Liability doctrine to the responsibilities of the Notary Candidate in making the Deed of Statement of Meeting Resolutions. This study was analyzed using a normative juridical research method. The results of the study, it was found that the Notary has full responsibility for the deed he made. In this case, the Notary is also responsible for the mistakes of his subordinates, based on the Vicarious Liability doctrine. Even though the Notary Candidate has the quality and intellectual capacity to know that his actions are against the law, the Notary Candidate should be able to take refuge under the Vicarious Liability doctrine due to the imbalance in the position between the Notary Candidate and the Notary, the lack of legal

protection and the absence of wages in the legal relationship between the Notary and the Notary Candidate. The notary must ensure that the work carried out by his subordinates is in accordance with the standards set by UUN and does not violate the law. In terms of the quality and capacity of the Notary Candidate as a party assisting the Notary, the Notary Candidate should receive legal protection to protect the future and career of the Notary Candidate.