

# Jual Beli Saham Secara Proforma yang Dibuat Dihadapan Notaris (Analisis Putusan Mahkamah Agung No. 188PK/PDT/2020) = Illusory Sale and Purchase of Shares Made Before a Notary (Analysis of Supreme Court Decision Number 188PK/PDT/2020)

Indah Mulia Hanisa, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920522844&lokasi=lokal>

---

## Abstrak

Penelitian ini membahas mengenai adanya pengalihan hak atas saham yang dilakukan secara proforma. Adanya pengalihan hak atas saham yang dilakukan secara proforma tersebut mengakibatkan akta jual beli saham yang dibuat dihadapan Notaris menjadi batal demi hukum dan tidak lagi mengikat para pihak, serta mengakibatkan Notaris diputus bersalah melakukan perbuatan melawan hukum dan ikut mengganti kerugian secara tanggung renteng. Rumusan masalah dalam tesis ini adalah akibat hukum pembuatan akta jual beli saham secara proforma yang dibuat dihadapan Notaris, serta mengkaji perbedaan pendapat hukum antara Majelis Hakim Pengadilan Negeri, Pengadilan Tinggi, Kasasi, Peninjauan Kembali, mengenai keterlibatan Notaris dalam pembuatan akta jual beli saham secara proforma. Untuk menjawab permasalahan tersebut digunakan metode penelitian hukum doktrinal dengan studi pustaka, sehubungan dengan pembuatan akta jual beli saham secara proforma yang dibuat dihadapan Notaris. Tipologi penelitian ini bersifat eksplanatoris analitis. Hasil analisis tesis ini adalah akta jual beli saham secara proforma yang dibuat dihadapan Notaris menjadi batal demi hukum karena melanggar ketentuan mengenai suatu sebab yang halal yang merupakan syarat objektif perjanjian, karena terbukti adanya kesalahan yang disengaja oleh PT WPE, PT NCE, DI dan THL yang menyebabkan kerugian bagi pemegang saham, dengan tidak dilunasinya harga saham. Peran dan tanggung jawab Notaris hanya terbatas kepada kebenaran dokumen formil. Kebenaran materil yang terkandung di dalam akta bukan menjadi kewajiban Notaris, selama pembuatan akta oleh Notaris sudah dilakukan berdasarkan perundang-undangan yang berlaku, khususnya UUJN dan UUPT.

.....This study discusses the existence of a transfer of rights over shares that are carried out pretentiously. The existence of the transfer of rights to shares carried out pretentiously resulted in the deed of sale and purchase of shares made before a Notary to be null and void and no longer binding on the parties, and resulted in the Notary being found guilty of committing an unlawful act and participating in jointly and severally compensating for losses. The formulation of the problem in this thesis is the legal consequences of making a pro forma share sale and purchase deed made before a notary, as well as examining differences of legal opinion between the panel of judges at the district court, high court, cassation, judicial review, regarding the involvement of a notary in making a pro forma sale and purchase deed. To answer this problem, the doctrinal legal research method is used with literature study, in connection with the making of a pro forma share sale and purchase deed made before a notary. The typology of this research is analytical explanatory. The result of the analysis of this thesis is that the pro forma sale and purchase of shares made before a Notary becomes null and void because it violates the provisions regarding a lawful cause which is an objective condition of the agreement, because it is proven that there was an intentional mistake by PT WPE, PT NCE, DI and THL which causing losses to shareholders, by not paying off the share price. The role and responsibilities of a Notary are limited to the correctness of formal documents. The material truth contained in the deed is not the obligation of the notary, as long as the making of the deed by the notary has

been carried out based on the applicable laws, especially UUJN and UUPT.