

Konsekuensi Hukum Akta Pernyataan Keputusan Rupsלב PT TMS yang dibuat Secara Melawan Hukum (Analisis Putusan Pengadilan Negeri Kendari Nomor 83/Pdt.G/2020/PN.Kdi jo. Putusan Pengadilan Negeri Kendari Nomor 102/Pid.B/2021/PN.Kdi) = Statement Deed`s Legal Consequences of Extraordinary General Meeting Shareholders` Resolution PT TMS Made Unlawfully (Analysis of Kendari District Court`s Verdict Number 83/Pdt.G/2020/PN.Kdi in Conjunction with Verdict Number 102/Pid.B/2021/PN.Kdi)

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Abstrak

Proses pembuatan Akta Pernyataan Keputusan RUPSLB harus memperhatikan UU PT, UUJN, Kode Etik Notaris, dan KUHPperdata. Namun pada kenyataannya terdapat notaris yang membuat Akta Pernyataan Keputusan RUPSLB yang tidak sesuai dengan peraturan tersebut. Dalam Putusan Kasasi Mahkamah Agung Nomor 1030 K/Pdt/2022, terdapat perbedaan pendapat di antara majelis hakim mengenai konsekuensi hukum Akta Pernyataan Keputusan RUPSLB PT TMS yang dibuat secara melawan hukum. Hal ini menarik untuk dianalisis, khususnya mengenai bentuk pelanggaran jabatan notaris yang dilakukan oleh Notaris RR ditinjau dari KUHP, UUJN, Kode Etik Notaris, dan KUHPperdata, serta mengenai konsekuensi hukum terhadap Akta Pernyataan Keputusan RUPSLB PT TMS yang dibuat secara melawan hukum. Metode penelitian yang digunakan adalah doktrinal dengan studi bahan-bahan kepustakaan. Hasil penelitian ini adalah Notaris RR melanggar Pasal 263 ayat (2) KUHP, Pasal 16 UUJN, Pasal 3 Kode Etik Notaris, dan Pasal 1365 KUHPperdata. Konsekuensi hukum Akta Pernyataan Keputusan RUPSLB PT TMS yang dibuat secara melawan hukum menjadi batal demi hukum. RUPSLB PT TMS melanggar Pasal 79 ayat (2), (3), dan (5) UUPT, Pasal 108 ayat (4) UUPT, Pasal 1365 KUHPperdata, Pasal 263 ayat (2) KUHP, dan Pasal 266 ayat (1) KUHP jo. Pasal 55 ayat (1) KUHP. Notaris perlu memastikan pemenuhan kelengkapan legalitas dokumen dalam pembuatan Akta Pernyataan Keputusan RUPSLB untuk menghindari terjadinya pelanggaran. Sebelum membuat Akta Pernyataan Keputusan RUPSLB yang berisi persetujuan penjualan saham, notaris harus memeriksa kelengkapan surat-surat dan memastikan bahwa penjualan saham sudah dilakukan dan sudah ada dokumentasinya.

.....Drafting Statement Deed of Extraordinary General Meeting Shareholders` Resolution PT TMS must look closely to the Limited Liability Companies Laws, Law Number 2 of 2014 amendments to Law Number 30 of 2004 concerning Notary Position, Notarial Code of Ethics, Civil Code, and Criminal Code. But in fact, some notary drafted Statement Deed of Extraordinary General Meeting Shareholders` Resolution not in accordance with these regulations. In Supreme Court`s Cassation Verdict Number 1030 K/Pdt/2022, there is a dissenting opinion between panel of judges about Statement Deed`s Legal Consequences of Extraordinary General Meeting Shareholders` Resolution PT TMS. It is interesting to analyze, especially regarding violations committed by Notary RR according to Criminal Code, Law Number 2 of 2014 amendments to Law Number 30 of 2004 concerning Notary Position, Notarial Code of Ethics, and Civil Code, and to analyze Statement Deed`s Legal Consequences of Extraordinary General Meeting Shareholders` Resolution made against the law. The research method used is doctrinal with literature studies. The result of this thesis

is Notary RR violated Article 263 section (2) Criminal Code, Article 16 Law Number 2 of 2014 amendments to Law Number 30 of 2004 concerning Notary Position, Article 3 Notarial Code of Ethics, and Article 1365 Civil Code. Statement Deed's Legal Consequences of Extraordinary General Meeting Shareholders' Resolution made against the law became null and void by law. Extraordinary General Meeting Shareholders' Resolution PT TMS violated Limited Liability Companies Laws in Article 79 section (2), (3), and (5), Article 108 section (4), Article 1365 Civil Code, Article 263 section (2) Criminal Code, and Article 266 section (1) Criminal Code in conjunction with Article 55 section (1) Criminal Code. The notary needs to confirm the completeness of legal documents in making a Statement Deed of Extraordinary General Meeting Shareholders' Resolution to avoid violate. Before making a Statement Deed of Extraordinary General Meeting Shareholders' Resolution containing the approval for the sale of shares, the notary must examine the completeness of documents and ensure that the sale of shares has been carried out and has documentation.