

Analisis Penerapan Prinsip Utmost Good Faith Berkaitan Dengan Premi Restorno Pada Asuransi Jiwa Syariah (Studi Kasus Putusan Pengadilan Agama No.426/Pdt.G/2021/PA.JS) = Analysis of the Application of Utmost Good Faith Principle Regarding to Restorno Premium in Sharia Life Insurance (Case Study of Religious Court Verdict No.426/Pdt.G/2021/PA.JS)

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Abstrak

Asuransi sebagai peralihan pertanggung jawaban terhadap risiko tertanggung harus didasarkan pada syarat sah perjanjian dan prinsip-prinsip perjanjian asuransi, salah satunya adalah prinsip iktikad paling baik atau utmost good faith. Dalam penerapan prinsip utmost good faith, baik pihak penanggung maupun pihak tertanggung berkewajiban memberikan keterangan secara jujur, jelas, dan detail terhadap kondisi dari objek yang dipertanggung jawabkan dan subjek yang terikat pada perjanjian tersebut. Prinsip utmost good faith seringkali menimbulkan permasalahan saat pihak tertanggung mengajukan klaim terhadap risiko yang terjadi pada objek asuransi, seperti pada kasus antara Anik sebagai tertanggung melawan PT Asuransi Jiwa Generali Indonesia sebagai penanggung pada putusan Pengadilan Agama No.426/Pdt.G/2021/PA.JS. Dalam penelitian ini, metode yang digunakan ialah yuridis normatif untuk mengetahui mengenai penerapan dan pelanggaran terhadap prinsip utmost good faith yang dilakukan oleh pihak penanggung serta meninjau kesesuaian Pertimbangan Hukum oleh Majelis Hakim mengenai prinsip utmost good faith dan premi restorno. Hasil dari penelitian ini adalah seluruh pihak tidak menerapkan prinsip utmost good faith di mana terjadi pelanggaran sehingga menimbulkan batalnya perjanjian asuransi. Dalam pelaksanaannya, pihak tertanggung melanggar prinsip utmost good faith dikarenakan terdapat tindakan misrepresentation dan juga material non-disclosure pada tahap underwriting terjadi yang menimbulkan batalnya Polis Asuransi Jiwa IPLAN Syariah Nomor 00197698. Pada bagian Pertimbangan Hukum, terdapat ketidakselarasan mengenai penerapan prinsip utmost good faith serta penerapan premi restorno sebagaimana telah diatur dalam Pasal 251 dan Pasal 281 KUHD. Dengan perbedaan pendapat dalam penerapan prinsip utmost good faith tersebut, diperlukan suatu undang-undang baru tentang perjanjian asuransi yang mengatur lebih lanjut mengenai bentuk pelanggaran dan penerapan prinsip utmost good faith secara proporsional baik dari pihak penanggung maupun pihak tertanggung.

.....Insurance, as a transfer of coverage against insured risks, must be based on valid contractual terms and principles of insurance agreements, one of which is the principle of utmost good faith. In the application of the principle of utmost good faith, both the insurer and the insured are obliged to provide information honestly, clearly, and in detail regarding the conditions of the insured object and the subject bound by the agreement. The principle of utmost good faith often leads to issues when the insured party submits claims for risks that occur to the insured object, as in the case between Anik as the insured and PT Asuransi Jiwa Generali Indonesia as the insurer in the verdict of the Religious Court No. 426/Pdt.G/2021/PA.JS. In this study, the normative juridical method is used to examine the application and violations of the principle of utmost good faith committed by the insurer, as well as to review the Legal Considerations by the Panel of Judges concerning the principle of utmost good faith and restorno premium. The result of this study

indicates that all parties did not apply the principle of utmost good faith, leading to violations that resulted in the nullification of the insurance agreement. In its implementation, the insured party violated the principle of utmost good faith due to misrepresentation and material non-disclosure during the underwriting process, leading to the nullification of the IPLAN Syariah Life Insurance Policy Number 00197698. In the Legal Considerations section, there is inconsistency regarding the application of the principle of utmost good faith and the regulation of restorno premium as stated in Article 251 and Article 281 of the Indonesian Civil Code. Given the difference of opinions in the application of the principle of utmost good faith, there is a need for a new law concerning insurance agreements that will further regulate the forms of violations and the proportional application of the principle of utmost good faith by both the insurer and the insured.