

Kajian Kritis Terhadap Pelaksanaan Kriteria Iktikad Baik Dan Tanggung Jawab Anggota Direksi Dalam Pengurusan PT: Studi Putusan Pengadilan Tinggi Bandung No. 94/Pdt/2015/PT.BDG = A Critical Study of the Implementation of the Good Faith Criteria and Responsibilities of Members of the Board of Directors in the Management of PT: Bandung High Court Decision Study No. 94/Pdt/2015/PT.BDG

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Abstrak

Penelitian ini menganalisis bagaimana kriteria anggota Direksi yang telah melaksanakan pengurusan PT dengan iktikad baik dan penuh tanggung jawab. Penelitian merupakan yuridis normatif dengan pendekatan konseptual, kasus dan perbandingan. Penelitian ini menyimpulkan, sesuai dengan peraturan dan prinsip-prinsip hukum PT di Indonesia, anggota Direksi telah melakukan pengurusan PT dengan iktikad baik jika memenuhi 5 (lima) kriteria, yaitu: kejujuran/ketulusan anggota Direksi; tidak melanggar hukum yang berlaku; bertindak sesuai norma dan kewajaran dalam bisnis; memiliki kompetensi sebagai Direksi dan bertindak sesuai kompetensi tersebut; tidak ada konflik kepentingan. Adapun kriteria penuh tanggung jawab anggota Direksi jika memenuhi 4 (empat) kriteria, yaitu: menjalankan tugas dan wewenang sesuai Anggaran Dasar PT dan hukum yang berlaku; tidak melampaui wewenang; memberikan informasi yang akuntabel kepada segenap stakeholder; terbuka dalam mengambil keputusan PT. Putusan Pengadilan Tinggi Bandung No.94/PDT/2015/PT.BDG yang menyatakan Direksi tidak mempunyai iktikad baik dan tidak bertanggung jawab, telah sesuai dengan peraturan dan prinsip-prinsip hukum PT. Hakim dalam pertimbangannya menilai Direksi tidak memenuhi kriteria menjalankan pengurusan dengan iktikad baik dan penuh tanggung jawab.

.....This study analyzes the criteria for members of the Board of Directors who have carried out the management of PT with good faith and full responsibility. The research is a normative juridical approach with a conceptual, case and comparison approach. This study concludes, in accordance with the regulations and legal principles of PT in Indonesia, members of the Board of Directors have managed the PT in good faith if they meet 5 (five) criteria, namely: honesty/sincerity of members of the Board of Directors; does not violate applicable laws; act according to the norms and fairness in business; have competence as a member of the Board of Directors and act according to that competence; no conflict of interest. The criteria for full responsibility for members of the Board of Directors if they meet 4 (four) criteria, namely: carrying out their duties and authorities in accordance with the Articles of Association of PT and applicable law; not exceed authority; provide accountable information to all stakeholders; open in making decisions PT. The decision of the Bandung High Court No.94/PDT/2015/PT.BDG which states that the Board of Directors does not have good faith and is not responsible, is in accordance with the regulations and legal principles of PT. The judge in his judgment considered that the Board of Directors did not meet the criteria for carrying out management in good faith and full of responsibility.