

Perbandingan hukum kapal laut sebagai objek jaminan utang (studi perbandingan antara Indonesia dan Singapura) = Comparison of law regarding vessel as an object of collateral security legal comparative (study between Indonesia and Singapore)

Tazkya Putri Amelia, author

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Abstrak

Kapal laut dapat dijadikan sebagai objek jaminan guna menjamin pelunasan suatu utang. Lembaga jaminan atas kapal laut adalah hipotik. Namun hanya kapal yang terdaftar dalam suatu register umum sajalah yang dapat dijadikan jaminan utang. Hipotik kapal laut juga dikenal di negara yang menganut sistem hukum common law, salah satu diantaranya adalah Singapura. Tesis ini membahas mengenai proses penjaminan kapal laut menurut hukum Indonesia dan Singapura serta persamaan dan perbedaan ketentuan kapal laut sebagai objek jaminan utang di Indonesia dan di Singapura. Penelitian ini merupakan penelitian yuridis-normatif dengan tipologi penelitian komparatif serta deskriptif. Selain itu dalam penelitian ini, Penulis menggunakan metode analisis kualitatif.

Hasil penelitian ini membahas mengenai proses penjaminan kapal laut di Indonesia dan di Singapura yang samasama terdiri dari 3 tahap yaitu tahap perjanjian kredit, tahap perjanjian pembebanan hipotik kapal laut dan tahap pendaftaran hipotik kapal laut. Selain itu terdapat persamaan dan perbedaan ketentuan hipotik kapal laut di Indonesia dan Singapura. Persamaan ketentuan hipotik kapal laut di Indonesia dan Singapura antara lain baik di Indonesia maupun di Singapura belum Undang-Undang Hipotik Kapal, hipotik kapal laut di Indonesia dan Singapura hanya dapat dibebankan atas kapal yang terdaftar, hipotik kapal laut harus didaftarkan dalam suatu register umum, kapal laut dapat dibebani lebih dari satu hipotik dan lain-lain. Sedangkan perbedaannya antara lain di singapura vessel mortgage terdiri dari 2 bentuk yaitu securing principle sum and interest dan securing current account, syarat pembebanan vessel mortgage di Singapura adalah kapal tersebut harus berusia kurang dari 17 tahun dan kapal tersebut harus berukuran minimal 1,600 Gross Tonnage dan Singapura memiliki pengadilan khusus di bidang admiral yaitu High Court (Admiral Jurisdiction).

<hr>A vessel may be made as a collateral security for loan and the instrument creating the security over the vessel is a mortgage. Only registered vessel that can be made as an object of a mortgage. Vessel mortgage also known in common law legal system countries, such as Singapore. This research is discuss about the procedural of vessel mortgage in Indonesia and Singapore and also find out the similarities and differences among two of them. This research is using a juridicalnormative method as the research method with comparative and also descriptive research typology. The method of data analysis in this research is using qualitative approach.

The result of this research showed that both in Indonesia and Singapore, the process of vessel mortgage are consist of 3 steps which are the loan agreement, the collateral agreement and the registration of the vessel mortgage. Moreover, there are similarities between the provision regarding vessel mortgage in Indonesia and Singapore which are both in Indonesia and Singapore, there is no regulation that specifically regulates

vessel mortgage, only registered vessel that can be made as an object of a mortgage under Indonesia and Singapore regulation, vessel mortgage shall be recorded by the Registrar in the register and the rest will be discussed in this research. Whereas the differences between the provision regarding vessel mortgage in Indonesia and Singapore among others are as follow, in Singapore vessel mortgage is divided by 2 forms which are Securing Principle Sum and Interest form and Securing Current Account form, in Singapore there are requirements regarding the vessel that can be made as an object of the mortgage, such as, the vessels should be less than 17 years old and the vessel must be a minimum size of 1,600 Gross Tonnage, furthermore, Singapore has a special court in the admiral field which is High Court (Admiral Jurisdiction).