

Keabsahan, Daluwarsa Dan Kebatalan Pengalihan Hak Atas Saham Dalam Perseroan Terbatas (Tertutup) : Studi Kasus Jual Beli Saham Dalam PT. Bumi Mansyur Permai = validity, expiration and nullification dale and purchase shares in a limited liability company : Case study sale and purchase share in PT. Bumi Mansyur Permai

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Abstrak

Dalam pelaksanaan jual beli saham, ada persyaratan Undang-Undang yang harus dipenuhi antara lain seperti diperolehnya persetujuan Rapat Umum Pemegang Saham Perseroan (RUPS) yang harus dimuat dalam akta notaris dan kemudian harus dibuatkan akta jual beli atas saham-saham tersebut. Tanpa dibuatnya akta jual beli tersebut, maka jual beli saham tersebut adalah batal demi hukum. Dalam putusan peninjauan kembali Mahkamah Agung mengenai kasus jual beli saham dalam PT. Bumi Mansyur Permai membatalkan putusan-putusan di ketiga tingkat peradilan karena terbukti terdapat kekhilafan dalam putusan-putusan sebelumnya, dimana majelis hakim di ketiga tingkat keadilan menganggap dengan diadakannya RUPS, maka telah terjadi jual beli saham.

Kasus ini dianalisis secara deskriptif analitis dengan menggunakan pendekatan yuridis normatif, dengan menitikberatkan pada sumber-sumber berupa peraturan perundang-undangan yakni antara lain peraturan mengenai pengalihan hak atas saham yang terdapat dalam Kitab Undang Undang Hukum Dagang, Undang Undang Nomor 1 Tahun 1995 dan Undang Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas serta teori-teori hukum yang diperoleh dari tulisan-tulisan para ahli hukum. Sebagai hasil analisa penelitian ini dapat di tekankan pentingnya pembuatan akta jual beli saham sebagai persyaratan formal jual beli saham, setelah diperolehnya persetujuan jual beli saham dari RUPS yang sebenarnya hanya merupakan pemberian persetujuan kolektif atas penjualan saham.

.....There are some requirements and procedure outlined by Law and Regulation that has to be met in order to properly executing sale and purchase of shares, among others, such as obtaining the approval from General Meeting of Shareholders that has to be made in notarial deed and to execute the deed of sale and purchase for such shares. Without executing the later then the sale and purchase of such shares is null and void. In reviewing the decision of the Supreme Court to cancel the verdicts on all three levels of judiciary regarding the case of sale and purchase shares in PT. Bumi Mansyur Permai, as it was proven that there has been a mistake in the verdicts by which the panel of judges at those three levels considered that by General Meeting of Shareholders agreeing for such transfer of shares can be treated equally as the act of sell and purchase itself.

This case is analyzed on descriptive analytical basis by using normative juridical approach, namely by focusing on sources such as the prevailing regulation and law as well as literature-literature related to such matters. As the result of research conducted for this matter it is to be emphasized the importance of executing deed of sale and purchase shares as one of the formal requirements after obtaining approval from General Meeting of Shareholders by which only is a collective agreement given for such transfer of shares.