

Keabsahan perbuatan hukum yang dilakukan berdasarkan kuasa direksi perseroan terbatas : studi kasus sengketa pengambilalihan saham PT Sima Bintang Niaga Putusan Mahkamah Agung No 1683/K/PID/2012 =
The validity of legal act based on the director s power of attorney in a limited liability company case study PT Sima Bintang Niaga

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Abstrak

Perseroan Terbatas sebagai badan hukum tidak bisa melakukan kegiatannya sendiri sehingga memerlukan wakil yang disebut organ perseroan. Salah satu organ perseroan adalah Direksi yang berwenang dan bertanggung jawab penuh atas pengurusan perseroan untuk kepentingan perseroan serta mewakili perseroan, sesuai dengan maksud dan tujuan perseroan baik di dalam maupun di luar pengadilan dan mengambil tindakan terkait manajemen dan kepemilikan dari perusahaan serta mengadakan perjanjian perikatan antara perseroan dengan pihak lain dan sebaliknya sesuai dengan anggaran dasar perseroan. Tugas-tugas yang dibebankan kepada direksi dalam menjalankan aktivitas Perseroan Terbatas sangatlah banyak dan dalam kondisi tertentu mungkin terjadi Direktur tidak dapat menjalankan kewenangannya sehingga kewenangan direksi dalam mengurus perseroan dikuasakan kepada pihak lain. Pemberian kuasa direksi ini merupakan hal yang umum pada masa sekarang ini, dan merupakan hal yang penting dalam aktivitas bisnis perseroan. Namun meskipun dibolehkan dalam pasal 103 Undang Undang Perseroan Terbatas (UUPT) nomor 40 Tahun 2007 hal ini tidak diatur secara terperinci sehingga dalam pelaksanaan pemberian kuasa direksi masih terdapat permasalahan mengenai kategori dan batasan kewenangan yang dapat dialihkan oleh Direksi kepada pihak lain. Hal ini terlihat dari kasus Sengketa Pengambilalihan Saham PT Sima Bintang Niaga di mana telah terjadi penggunaan surat kuasa Direksi untuk melakukan pemanggilan Rapat Umum Pemegang Saham. Untuk mengetahui dan menganalisa hal-hal tersebut, dilakukan penelitian yuridis normatif dengan pendekatan perundang-undangan (statute approach).

As a legal entity, a limited liability company is unable to do its business activities by itself and therefore needs representatives to do it. Director is one of its representative organs who is responsible and fully liable to do all the necessary activities related to the company and manage the company for the interest of and in accordance with the purpose and objectives of the company. Director is also entitled to represent the company within and outside the court of law and to take all acts concerning both the management and the ownership of the company and to bind the company with other parties and vice versa as stated in the Articles of Association of the company. Managing daily business activities of the company is a huge task and in certain condition a director may not be able to do his authority and therefore he or she may give the authority to other party. The used of a power of attorney is common nowadays and is important in business activities and even though it is governed in article 103 the Law of Republic Indonesia number 40 of 2007 concerning Limited Liability Company, the regulation does not provide details explanation as well as the procedures concerning the power of attorney given by the director of a company. This has lead to many problems in terms of the framework and limitation of the authorities that can be given to other party. One of the case related to the power of attorney given by a director to a third party is shown in the controversy of the transfer of shares of PT Sima Bintang Niaga whereby the power of attorney given by the director was

used to do the legal action of notifying the shareholders for a General Meeting of Shareholders. The method used in analysing this research is a juridical normative method with statute approach.