

Analisa hukum perjanjian perdamaian dalam penyelesaian sengketa jual beli obyek hak atas tanah (studi kasus putusan Pengadilan Tinggi Tanjung Karang Nomor 30/Pdt/1989/PT.TK) = Legal analysis on peace agreement for dispute resolution of land right object sale and purchase

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Abstrak

[Tesis ini membahas mengenai “Analisa Hukum Perjanjian Perdamaian Dalam Penyelesaian Sengketa Jual Beli Obyek Hak Atas Tanah“. Penelitian ini bersifat deskriptif dengan metode yuridis normatif yaitu dengan melihat bagaimana bentuk perjanjian perdamaian pada penyelesaian sengketa perdata dalam sistem peradilan di Indonesia. Perdamaian sebagai salah satu bentuk perjanjian, Pasal 1851

KUHPerdata mengatur definisi perdamaian “suatu perjanjian dengan mana kedua belah pihak, dengan menyerahkan, menjanjikan atau menahan suatu barang, mengakhiri suatu perkara yang sedang bergantung atau pun mencegah timbulnya suatu perkara“. Dimasukkannya prosedur perdamaian ke dalam sistem peradilan

didasarkan pada Pasal 130 HIR/154 Rbg dimana dijelaskan hakim wajib

menganjurkan para pihak yang berperkara untuk menempuh prosedur perdamaian terlebih dahulu.

Perjanjian perdamaian sah jika dibuat secara tertulis. Perjanjian perdamaian yang ditetapkan dalam suatu formalitas atau bentuk cara tertentu, dinamakan perjanjian formil. Dalam perjanjian formil kesepakatan atau perjanjian lisan semata-mata antara para pihak yang berjanji belum melahirkan kewajiban pada pihak yang berjanji untuk menyerahkan sesuatu, melakukan atau berbuat

sesuatu atau tidak melakukan dan tidak berbuat sesuatu. Apabila salah satu pihak wanprestasi maka pihak yang dirugikan dapat menempuh prosedur eksekusi;

This thesis discusses “Legal Analysis on Peace Agreement for Dispute Resolution of Land Right Object Sale and Purchase“. This is a descriptive study that uses juridical normative method, which sees what form does the Peace Agreement for civil dispute

settlement in Indonesia’s justice system take. Peace as a form of agreement, on act 1851 of Civil Code,

mentioned that the definition of peace agreement is “an agreement, with which both party, by giving,

pledging or holding an object, ending a dispute that haven’t been solved or even prevent a dispute“. The

inclusion of peace procedure in justice system is based on act 130 of HIR/154 Rbg whereas elaborated that a judge is required to advise the disputing parties to go through peace procedure first. Peace Agreement is

valid if made in writing. Peace Agreement which set in a specific formal way is called a formal

agreement. In a formal treaty or oral agreement solely between the parties have yet bore any liability on the pledging party, be it to give, do, commit or not to do something. If one of the parties is negligent, the other

party, which is aggrieved, said party can take execution procedures., This thesis discusses “Legal Analysis on Peace Agreement for Dispute Resolution

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