

Perbuatan melawan hukum dalam pemindahan hak atas saham perseroan terbatas tertutup (studi kasus putusan No. 604/PDT.G/2011/PN.JKT.SEL) = Unlawful act in transferring rights over non publicly listed limited liability company s shares case study decision No. 604/PDT.G/2011/PN.JKT.SEL

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Abstrak

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 Saham Perseroan Terbatas Tertutup merupakan benda yang dapat dipindahkan kepemilikannya melalui perjanjian hibah dan/atau perjanjian jual beli.

Pemindahan hak atas saham melalui perjanjian ini harus tunduk pada persyaratan dan juga tata cara yang diatur dalam peraturan perundang-undangan maupun Anggaran Dasar Perseroan agar sah secara hukum. Apabila syarat-syarat tersebut tidak terpenuhi maka pemindahan hak atas saham itu dapat dikatakan sebagai sebuah perbuatan melawan hukum, sebagaimana dapat ditemui dalam putusan No. 604/Pdt.G/2011/PN.Jkt.Sel. Dua permasalahan utama yang akan dibahas dalam penulisan ini adalah bagaimana tata cara pemindahan hak atas saham Perseroan Terbatas Tertutup melalui perjanjian jual beli dan hibah serta bentuk perbuatan melawan hukum yang terjadi dalam perkara di atas. Penulisan dalam skripsi ini menggunakan pendekatan yuridis normatif dengan metode penelitian kepustakaan. Berdasarkan hasil analisis skripsi ini, pelanggaran unsur esensialia dalam suatu perjanjian pemindahan hak atas saham merupakan sebuah perbuatan melawan hukum. Oleh karena itu penting bagi para pihak untuk patuh serta memahami ketentuan umum perjanjian dan juga tata cara pemindahan hak atas saham yang telah diatur dalam peraturan perundang-undangan.<hr>

ABSTRACT
 Shares of Non-Publicly Listed Limited Liability Company are objects whose ownership can be transferred through grant and/or sale and purchase agreement. The transfer of rights over share by agreement must adhere to the requirements and procedures as set out within applicable laws and Articles of Association in order to have legally binding power. If such requirements are not observed, the transfer of rights over shares can be considered as an unlawful act which can be found in the decision No. 604/Pdt.G/2011/PN.Jkt.Sel. Two main issues that will be analyzed in this thesis are procedures of transfer of rights over shares through grant and share and purchase agreemeement, as well as the unlawful act taken place in the case above. This thesis adopts the juridical normative approach using literary research method. As a result of the analysis in this thesis, the infringement of essential element in a transfer of rights over share through agreement is considered as an unlawful act. Therefore, it is important for the parties to abide by and understand the general provisions on agreements and the procedures

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