

Pembatalan berita acara rapat umum pemegang saham luar biasa PT. SHGW Bio-Tea Indonesia dan tanggung jawab notaris terhadap akta yang dinyatakan batal demi hukum (studi kasus putusan pengadilan negeri Cibinong Nomor 15/PDT.G.2013/PN.CBN0 = Nullification of minutes of extraordinary general meeting of shareholders of PT. SHGW Bio-Tea Indonesia and notary s liabilities towards the deed nullified by law (case study on the decree of the Cibinong district court Number 15 PDT. G/2013/PN.CBN)

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Abstrak

PT. SHGW Bio-Tea Indonesia merupakan Perusahaan Penanaman Modal Asing yang berkedudukan di Kabupaten Bogor dan telah melaksanakan Rapat Umum Pemegang Saham Luar Biasa tertanggal 3 Januari 2013 (selanjutnya disebut RUPSLB) dengan agenda rapat 'mempertimbangkan usulan pergantian Direksi dan Dewan Komisaris Perseroan'. RUPSLB tersebut diadakan di hotel Novotel Bogor dengan jumlah pemegang saham yang hadir/diwakili sebanyak 75% (tujuh puluh lima persen). RUPSLB tersebut dituangkan ke dalam Berita Acara RUPSLB PT. SHGW Bio-Tea Indonesia No. 1 yang dibuat oleh Richard Suwonodo, S.H., Notaris di Kabupaten Bogor. Adapun atas pergantian Direksi Perseroan tersebut Direksi lama yaitu Ir. Tri Kuntarto mengajukan gugatan Perbuatan Melawan Hukum ke Pengadilan Negeri Cibinong terhadap Dewan Komisaris dan Notaris bersangkutan atas dasar pelaksanaan RUPSLB PT. SHGW Bio-Tea Indonesia yang cacat hukum, yaitu: RUPSLB tidak dilaksanakan di tempat kedudukan perseroan dan status Direksi baru yang diangkat oleh PT. SHGW Bio-Tea Indonesia masih menjabat sebagai Pegawai Negeri Sipil. Hal demikian telah melanggar Pasal 76 ayat (1) Undang-Undang No. 40 Tahun 2007 tentang Perseroan Terbatas dan Pasal 93 UUPT jo Pasal 4 Peraturan Pemerintah Nomor 53 Tahun 2010 tentang Disiplin Pegawai Negeri Sipil. Dengan terdapatnya cacat hukum dalam RUPSLB tersebut yang dituangkan dalam Berita Acara Rapat Umum Pemegang Saham Luar Biasa PT. SHGW Bio-Tea Indonesia No. 1 tanggal 3 Januari 2013, akta tersebut menjadi tidak sah dan batal demi hukum sehingga Notaris yang dalam hal ini telah lalai memperhatikan keabsahan jalannya RUPS ikut bertanggung jawab secara perdata berupa pengantian biaya atau ganti rugi kepada Pengugat.

<hr><i>PT. SHGW Bio-Tea Indonesia is a Foreign Investment Company domiciled in Bogor Regency and has convened an Extraordinary General Meeting of Shareholders dated 3 January 2013 (hereinafter is referred to as EGMS) which meeting agenda is 'to consider the proposal on the replacement of the Company's Board of Directors and Board of Commissioners'. The concerned EGMS was convened in Novotel Hotel, Bogor, with 75% (seventy five percent) shareholders being present/represented. The EGMS was stated into Minutes of EGMS of PT. SHGW Bio-Tea Indonesia No. 1 which was made by Richard Suwonodo, S.H., Notary in Bogor Regency. Whereas on the replacement of the Company's Board of Directors, the previous Board of Directors namely Ir. Tri Kuntaro, submitted a Tort Lawsuit to Cibinong District Court towards the concerned Board of Commissioners and Notary, on the basis of EGMS which was convened by PT. SHGW Bio-Tea Indonesia as legally defective in its implementation, namely: the EGMS was convened not in the company's domicile and the newly appointed Board of Directors was still having

the status as Civil Servant. Such matters have violated Article 76 paragraph (1) of Act No. 40 of 2007 on Limited Liability Company (hereinafter is referred to as LLC Act) and Article 93 of LLC Act in conjunction with Article 4 of Government Regulation Number 53 of 2010 on Civil Servant Discipline. The legally defective matters in that EGMS which are stated in the Minutes of Extraordinary General Meeting of Shareholders of PT. SHGW Bio-Tea Indonesia No. 1 dated 3 January 2013, the deed is hereby considered as invalid and nullified by law therefore the Notary, who in this matter has negligent in considering the validation of the EGMS shall be civilly responsible in indemnifying or compensating the Plaintiff.</i>