

Analisis Perbuatan Melawan Hukum dalam Pengalihan Piutang Secara Cessie (Studi Kasus Atas Putusan Pengadilan Negeri Nomor 555/PDT.G/2018/PN.JKT.UTR Jo. Putusan Nomor 272/PDT/2020/PT.DKI) = Analysis in Tort Law on The Assignment (Case Study on Judicial Court Decision No. 555/PDT.G/2018/PN.JKT UTR Jo. Court Decision No. 272/PDT/2020/PT.DKI)

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Abstrak

Penelitian ini membahas mengenai pengalihan piutang secara cessie yang dilakukan oleh salah satu anggota kreditor, yakni PT China Construction Bank kepada Tomy Winata dalam fasilitas pemberian kredit sindikasi untuk pembangunan Hotel Kuta Paradiso yang dalam Putusan Pengadilan Negeri Nomor 555/PDT.G/2018/PN.JKT.UTR Jo. Putusan Nomor 272/PDT/2020/PT.DKI dinyatakan sebagai perbuatan melawan hukum. Majelis Hakim dari tingkat pertama hingga tingkat banding memutuskan perbuatan cessie tersebut tidaklah sah karena dilakukan tanpa hak dan wewenang. Majelis Hakim yang menyatakan bahwa Fireworks Venture Limited merupakan kreditor tunggal yang telah memperoleh seluruh piutang lewat cessie dari BPPN. Sementara, dalam Putusan Perkara Nomor 26/Pdt.G/2013/PN.JKT.PST, Gaston Investment Limited juga telah diakui kedudukannya sebagai kreditor. Penulis menggunakan metode penelitian hukum normatif dengan pendekatan analitis untuk menjawab permasalahan hukum tersebut. Hasil penelitian penulis adalah pengalihan piutang yang dilakukan oleh PT China Construction Bank dan Tomy Winata telah dilakukan sesuai dengan besaran pinjamannya dan dilakukan berdasarkan rechtstitel yang sah sebagaimana memenuhi ketentuan dalam Pasal 584 KUHPerdara dalam pengalihan piutang yang dilakukan oleh pihak yang berwenang sehingga pengalihan piutang secara cessie tidak memenuhi unsur perbuatan melawan hukum dalam Pasal 1365 KUHPerdara. Oleh karena itu, Penulis berharap Majelis Hakim dapat lebih cermat dan teliti dalam memutus suatu perkara utang-piutang yang lazim ditemui dalam kegiatan ekonomi masyarakat.

.....This research discusses the assignment of receivables carried out by one of the creditor members the PT China Construction Bank to Tomy Winata in a syndicated loan facility for the construction of the Kuta Paradiso Hotel which was stated in the Judicial Court Decision Number 555 / PDT.G / 2018 / PN. JKT.UTR Jo. Decision Number 272 / PDT / 2020 / PT.DKI was declared an act against the law. The Judges from the court to the appeal level decided the assignment as a tort (act against the law) because it was carried out without the full right and authority that had transferred to Fireworks Venture Limited as a new creditor member in the syndicated loan. Further, the Judges stated that Fireworks Venture Limited was the sole creditor of the syndicated credit receivables which may affect the position of other creditor members who were members of the syndicated credit facility whose position had been recognized such as Gaston Investment Limited in Court Decision Number 26/Pdt.G/ 2013 /PN.JKT.PST which filed a default suit against PT Geria Wijaya Prestige as the debtor. The author uses a normative legal research method with an analytical approach to answer these legal problems. The result of the author's analysis is that the transfer of accounts receivable by PT China Construction Bank and Tomy Winata has been carried out according to the

amount of the loan and is carried out based on a valid rechtstitel as it meets the provisions in Article 584 of the Civil Code. in the transfer of receivables carried out by the competent authority so that the assignment of receivables does not fulfill the element of an unlawful act in Article 1365 of the Indonesian Civil Code. Therefore, the author in his suggestion hopes that the Panel of Judges can be more careful and thorough in deciding a case, especially in considering the arguments put forward by the plaintiff in the lawsuit and also the answers from the defendant by taking into account the provisions in the statutory regulations along with the evidence submitted to the trial so that the parties in the case can get a decision as fairly as possible.