

Status Hukum Kekayaan dan Kerugian Anak Perusahaan Persero (Analisis Putusan no. 121k/Pid.Sus/2020 dan Putusan No. 350 K/Pid.Sus/2020) = Legal Status of the Assets and Losses of Public Company Subsidiaries (Analysis of Decision No. 121k/Pid.Sus/2020 and Decision No. 350 K/Pid.Sus/2020)

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Abstrak

Tesis ini membahas status kekayaan dan kerugian anak perusahaan berdasarkan Putusan No. 121k/Pid.Sus/2020 dan Putusan No. 350 K/Pid.Sus/2020. Penelitian ini merupakan penelitian yuridis normatif, yang mengacu pada norma hukum yang terdapat pada peraturan perundang-undangan dan putusan pengadilan. Hasil penelitian menunjukkan kekayaan negara yang dimasukan penyertaan modal negara pada BUMN Persero atau Perseroan Terbatas, bertransformasi menjadi saham/modal negara pada BUMN Persero atau Perseroan Terbatas tersebut. Kekayaan negara yang bertransformasi menjadi kekayaan BUMN Persero atau Perseroan Terbatas tersebut, sehingga tunduk pada Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. Namun, terdapat perbedaan pendapat di kalangan Hakim mengenai kerugian Anak Perusahaan Persero. Dalam kasus PT. Pertamina Hulu Energi melalui Putusan Mahkamah Agung Nomor 121K/Pid.Sus/2020 dan Putusan Mahkamah Agung Nomor 3849 K/Pid.Sus/2019, Mahkamah Agung menilai kerugian anak perusahaan dari PT Pertamina (Persero) bukan merupakan kerugian keuangan Negara yang riil (hanya merupakan penurunan nilai yang fluktuatif). Namun dalam kasus PT. PLN Persero melalui Putusan Mahkamah Agung Nomor 350 K/Pid.Sus/2020 dan Putusan Mahkamah Agung Nomor 3318 K/Pid.Sus/2019 masih menganggap kekayaan dan kerugian PT. PLN Batubara sebagai Anak Perusahaan PT. PLN (Persero) merupakan kekayaan dan kerugian negara.

.....This thesis discusses the legal Status of the Assets and losses of Public Company Subsidiaries based on Decision No. 121k/Pid.Sus/2020 and Decision No. 350 K/Pid.Sus/2020. This research is a normative juridical research, which refers to the legal norms contained in the legislation and court decisions. The results of the study show that state assets included in state equity participation in Public Company or Limited Liability Companies, are transformed into shares/state capital in the Public Company or Limited Liability Companies. State assets that are transformed into the assets of Public Company or Limited Liability Companies, so that they are subject to Law Number 40 of 2007 regarding Limited Liability Companies. However, there are differences of opinion among Judges regarding the losses of Public Company Subsidiaries. In the case of PT. Pertamina Hulu Energi through Supreme Court Decision Number 121K/Pid.Sus/2020 and Supreme Court Decision Number 3849 K/Pid.Sus/2019, the Supreme Court assessed that the loss of a subsidiary of PT Pertamina (Public Company) was not a real state financial loss (only is a fluctuating decline in value). However, in the case of PT. PLN Persero through Supreme Court Decision Number 350 K/Pid.Sus/2020 and Supreme Court Decision Number 3318 K/Pid.Sus/2019 still considers the wealth and losses of PT. PLN Coal as a Subsidiary of PT. PLN (Public Company) is the state's wealth and losses.