

Konosemen sebagai obyek jaminan gadai dan fidusia

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Abstrak

Perdagangan internasional tidak terlepas dari peran pengangkutan laut. Konosemen sebagai surat angkut juga mempunyai fungsi sebagai surat berharga, diterbitkan dalam dua lembaran yang dapat diperdagangkan, satu lembaran dipegang oleh Pengirim (Penjual) dan satu lembaran lainnya dipegang oleh Penerima (Pembeli). Konosemen yang berada di tangan Penerima mempunyai fungsi tuntutan penyerahan sejumlah barang (transferable), sedangkan yang berada di tangan Pengirim mempunyai fungsi tuntutan penyerahan sejumlah uang sebagai pembayaran atas barang-barang yang telah dikirimnya (negotiable). Kedua Konosemen ini dapat dijamin sebagai benda bergerak menurut undangundang, namun dalam tesis ini pembahasan dibatasi pada Konosemen yang negotiable saja.

International trade is inseparable from admiralty. Being freight documents, Bills of Lading, can also function as negotiable instruments when Bills of Lading are issued in two original sets which are transferable and negotiable, to be held by the consignee and the consignor. As regards its transferability and negotiability, both terms have different legal meanings. Transferable Bills of Lading, which are to be held by the Consignee (Buyer), entitle the holder to demand the delivery of the goods from the Carrier, whereas negotiable Bills of Lading, which are to be held by the Consignor (Seller), entitle the holder to demand payment from the Letters of Credit issued by the Consignee's banks (Issuing Bank jointly and severally with Confirming Bank and Paying Bank) when those two instruments, together with other documents ancillary thereto, come to be negotiated. Notwithstanding transferable and negotiable Bills of Lading can be encumbered as collateral for due repayment of loans, this thesis is, however, focused only on the collateralization of negotiable Bills of Lading.