

TANGGUNG JAWAB RUMAH SAKIT TERHADAP KELALAIAN YANG DILAKUKAN DOKTER (Studi Putusan Nomor 1366 K/Pdt/2017)

INTISARI

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Penelitian hukum ini bertujuan untuk mengkaji dan mengetahui upaya yang dapat dilakukan untuk menyelesaikan sengketa medis di Rumah Sakit dan tanggung jawab rumah sakit terhadap kelalaian yang dilakukan oleh dokter berdasarkan studi kasus dalam Putusan Nomor 1366 K/Pdt/2017 *jis* Putusan Nomor 462/Pdt/2016/PT. BDG dan Putusan Nomor 630/Pdt.G/2015/PN Bks.

Penelitian ini menggunakan metode yuridis-normatif yang menggunakan data sekunder dengan teknik pengumpulan data dokumenter atau melakukan studi pustaka atau studi dokumen. Data yang didapatkan kemudian dianalisis secara deskriptif-kualitatif, yakni mengemukakan beberapa kesimpulan sebagai temuan dari hasil penelitian.

Hasil penelitian ini menunjukkan bahwa terhadap perkara pada Putusan Nomor 1366 K/Pdt/2017 *jis* Putusan Nomor 462/Pdt/2016/PT. BDG dan Putusan Nomor 630/Pdt.G/2015/PN Bks sudah dilakukan upaya penyelesaian sengketa non litigasi melalui mediasi dan litigasi melalui peradilan perdata, namun dalam melakukan upaya penyelesaian sengketa melalui peradilan perdata tidak didahului dengan pernyataan ahli profesi kedokteran, dalam hal ini adalah Majelis Kehormatan Disiplin Kedokteran Indonesia (MKDKI) sehingga gugatan dianggap prematur dan tidak dapat diterima. Ada pun tanggung jawab rumah sakit terhadap kelalaian yang dilakukan dokter dapat berdasarkan Pasal 46 Undang-Undang No. 44 tahun 2009 tentang rumah sakit serta penerapan asas *vicarious liability* dan *hospital liability*. Sehingga rumah sakit dalam Putusan Nomor 1366 K/Pdt/2017 *jis* Putusan Nomor 462/Pdt/2016/PT. BDG dan Putusan Nomor 630/Pdt.G/2015/PN Bks memiliki *legal standing* untuk berperkara dan dapat dilakukan penuntutan pertanggungjawaban terhadapnya dengan berdasarkan pada Pasal 1365 KUH Perdata jo. Pasal 1367 KUH Perdata.

Kata Kunci: Sengketa Medis, Kelalaian Dokter, Tanggung Jawab Rumah Sakit.

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THE HOSPITAL RESPONSIBILITY FOR NEGLIGENCE PERFORMED

BY DOCTORS (A CASE STUDY OF DECISION NUMBER 1366

K/Pdt/2017)

ABSTRACT

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This law research aims to examine and find out the efforts that can be made to resolve medical disputes in hospitals and the hospital's responsibility for negligence committed by doctors based on the case study in Decision Number 1366 K/Pdt/2017 jis Decision Number 462/Pdt/2016 /PT. BDG and Decision Number 630/Pdt.G/2015/PN Bks.

This study uses a juridical-normative method that uses secondary data with documentary data collection techniques or conducting library research or document studies. This research uses a juridical-normative method that utilizes secondary data with a documentary data collection technique. In other words, this research uses a literature review or document review data-collection technique. The data obtained were further analyzed by a descriptive-qualitative method by proposing several conclusions as findings from the research results.

The results of this study indicate that the case in Decision Number 1366 K/Pdt/2017 jis Decision Number 462/Pdt/2016/PT. BDG and Decision Number 630/Pdt.G/2015/PN Bks, efforts have been made to resolve non-litigation disputes through mediation and litigation through civil courts, however, efforts to resolve disputes through deceptive courts are not preceded by statements from medical professional experts, in this case, The Indonesian Medical Disciplinary Council (MKDKI) therefore considered the lawsuit premature and unacceptable. The hospital's responsibility for negligence by doctors can be based on Article 46 of Law no. 44 of 2009 concerning hospitals and the application of the principles of vicarious liability and hospital liability. In this way, the hospital in Decision Number 1366 K/Pdt/2017 jis Decision Number 462/Pdt/2016/PT. BDG and Decision Number 630/Pdt.G/2015/PN Bks have legal standing for litigation and can be prosecuted based on Article 1365 of the Civil Code jo. Article 1367 of the Civil Code.

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Keywords: Medical Disputes, Doctor's Negligence, Hospital Responsibilities.