

INTISARI

PEMENUHAN SYARAT SAHNYA PERJANJIAN DALAM PERJANJIAN KERJASAM PEMANFAATAN ASSET PT. PELINDO II (PERSERO) STUDI KASUS PT. JAKARTA INTERNATIONAL CONTAINER TERMINAL

Oleh

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Penelitian ini bertujuan untuk mengetahui dan menganalisis pemenuhan syarat sahnya perjanjian dalam perjanjian kerjasama pemanfaatan asset PT. Pelindo II (Persero) / IPC.

Penelitian ini bersifat normatif dengan bahan-bahan hukum primer dan sekunder sebagai sumber data. Data diteliti dengan cara studi dokumen. Data dianalisis secara kualitatif. Hasil analisis disajikan secara deskriptif.

Dari hasil penelitian, Penulis mendapati bahwa terdapat 2 (dua) periode Perjanjian Pemanfaatan Asset IPC dengan JICT. Periode pertama ditandai dengan adanya Perjanjian Kuasa Operasi dan Perjanjian Tanah HPL yang berlaku dari tahun 1999 – 2019. Periode kedua ditandai dengan adanya Amandemen Perjanjian Kuasa Operasi yang ditandatangani pada tahun 2014, yang memperpanjang masa berlaku Perjanjian Kuasa Operasi menjadi hingga tahun 2039. Untuk Perjanjian Kuasa Operasi dan Perjanjian Tanah HPL, telah memenuhi syarat sahnya suatu perjanjian sebagaimana ditetapkan Pasal 1320 KUHP. Sementara Amandemen Perjanjian Kuasa Operasi tidak memenuhi syarat sahnya suatu perjanjian karena tidak memenuhi syarat subyektif berupa kecakapan para pihak dan syarat obyektif berupa suatu sebab yang halal. Hal ini menyebabkan amandemen Perjanjian Kuasa Operasi tersebut batal demi hukum dan sebagai konsekuensi, kondisi diantara para pihak penandatanganan Amandemen Perjanjian Kuasa Operasi harus dikembalikan seperti semula seolah-oleh Amandemen Perjanjian Kuasa Operasi tersebut tidak pernah ditandatangani.

Kata Kunci : Syarat sahnya Perjanjian, Peraturan Perundang-undangan

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ABSTRACT

THE FULFILLING OF CONDITIONS ON DETERMINING THE LEGITIMATION OF AN AGREEMENT ON PT PELINDO II (PERSERO) ASSET UTILIZATION AGREEMENT CASE STUDY IN PT. JAKARTA INTERNATIONAL CONTAINER TERMINAL

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This research is designated to find out and analyze the fulfilling of conditions on determining the legitimation of an agreement on PT Pelindo II (Persero) or IPC Asset Utilization Agreement.

This research is normative in nature by using primary and secondary matters as it data source. The data shall be examined by document study method. The datas shall be analyzed qualitatively and shall be presented descriptively.

From the research, the Writer found out that there are 2 (two) periods of Asset Utilization Agreement. The first period marked by the Authorizaiton Agreement and HPL Land Agreement, commenced from 27 March 1999 up to 26 March 2019, while the second period marked by the Amendment of Authorization Agreement, which extend the period of Authorization Agreement up to 26 March 20139. The Authorization Agreement and HPL Land Agreement has fulfill the conditions on determining the legitimation of an agreement regulated by Article 1320 of Indonesian Civil Code Act. However, the amendment of Authorization Agreement does not fulfill all conditions on determining the legitimation of an agreement. The Amendment fails to fulfill conditions on the legitimation and authority of the parties entering the agreement and legal cause which is not against any rules and regulations applied. This will lead on the null and void (legally) of the Amendment. By this condition, then the conditions between the parties entering the Amendment should be returned to the condition before the signing of the Amendment and all accomplishment / performance which has been conducted based on the Amendment should be returned to the party performed it.

Key Words : Conditions on legitimation of an agreement, Regulations

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