

Penerapan Perjanjian Diam-Diam dalam Perjanjian Distributorship (Studi Kasus Putusan MA Nomor 1278/K/Pdt/2008)

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INTISARI

Perjanjian diam-diam lahir dari adanya kebebasan bersepakat para subjek hukum baik secara tegas dengan mengucapkan kata-kata maupun secara diam-diam dengan suatu sikap atau dengan isyarat. Dalam praktek terdapat banyak perjanjian yang diperbaharui dengan perjanjian diam-diam, salah satunya adalah Perjanjian Distributorship antara PT Dwi Damai dengan PT Philips Indonesia. Setelah berakhirnya jangka waktu perjanjian, para pihak masih tetap melakukan perbuatan hukum berupa transaksi-transaksi pemesanan, pengiriman, pembayaran dan pemasaran produk, selayaknya perjanjian belum berakhir. Dalam pelaksanaan pembaharuan perjanjian tersebut terdapat perselisihan antara PT Dwi Damai dengan PT Philips Indonesia, khususnya mengenai adanya tidaknya pembaharuan perjanjian distributorship dengan perjanjian diam-diam, yang mengakibatkan PT Dwi Damai mengajukan gugatan wanprestasi dan perbuatan melawan hukum terhadap PT Philips Indonesia.

Tujuan penelitian ini adalah untuk mengetahui apakah dasar pertimbangan hakim dalam menyatakan berlakunya perjanjian diam-diam dalam perjanjian distributorship pada Putusan MA Nomor 2178/K/Pdt/2008 telah sesuai dengan peraturan perundang-undangan dan untuk mengetahui bagaimana perlindungan hukum bagi para pihak dalam pelaksanaan perjanjian distributorship. Jenis penelitian yang dilakukan merupakan penelitian yuridis normatif yang menitikberatkan pada studi kepustakaan terhadap data sekunder berupa bahan hukum primer, sekunder, dan tersier yang berkaitan dengan permasalahan yang diteliti. Hasil penelitian menunjukkan bahwa pertimbangan hakim dalam menyatakan berlakunya perjanjian diam-diam dalam perjanjian distributorship antara PT Dwi Damai dengan PT Philips Indonesia telah sesuai dengan ketentuan peraturan perundang-undangan yang berlaku saat dilakukan pembaharuan perjanjian distributorship tersebut. Perlindungan hukum bagi para pihak yang dirugikan dalam pelaksanaan perjanjian distributorship dapat dilakukan dengan mengajukan gugatan wanprestasi atau gugatan melawan hukum.

Kata Kunci : Perjanjian Diam-Diam, Perjanjian Distributorship, Wanprestasi, Perbuatan Melawan Hukum.

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The Application of Silent Agreement within Distributorship Agreement (Case Study : Putusan MA No. 2178/K/Pdt/2008)

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ABSTRACT

Silent agreement derives from the freedom of legal subjects to enter into an agreement either firmly by words or silently by any act as well as any sign. Practically, there are many agreements which are renewed by virtue of silent agreement, one of which is a Distributorship Agreement between PT Dwi Damai and PT Philips Indonesia. After the end of the agreement period, the parties still kept performing legal acts in the form of transactions such as orders, delivery, payment, and distribution of the products as if the agreement is still in force. At the implementation of the renewal of the distributorship agreement, there were disputes between PT Dwi Damai and PT Philips Indonesia particularly regarding whether or not there was any renewal of the agreement by virtue of a silent agreement, which led PT Dwi Damai to file a lawsuit against PT Philips Indonesia for a breach of contract and tort.

The purpose of this legal research is to learn whether or not the considerations of the judges which decided the application of silent agreement within the distributorship agreement in Putusan MA No. 2178/K/Pdt/2008 has been in accordance with the laws and regulations and to learn how the legal protection for the parties in the implementation of distributorship agreement is. The type of this research is a normative juridical research which focus on literature study towards secondary data in the form of primary, secondary, and tertiary legal materials which are related to research problems. The result of this legal research shows that the considerations of judges by deciding the application of silent agreement within the Distributorship Agreement between PT Dwi Damai with PT Philips Indonesia were in accordance with laws and regulations, applicable at the time of the renewal of the distributorship agreement. The legal protection for the parties in the implementation of distributorship agreement can be performed by filing a lawsuit for a breach of contract or tort.

Keywords : *Silent Agreement, Distributorship Agreement, Breach of Contract, Tort.*

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