

PERTANGGUNGJAWABAN DIREKSI PT. ANEKA TAMBANG ATAS PENUNJUKAN BUTIK PENJUALAN EMAS YANG MERUGIKAN PEMBELI

(Studi Kasus: Putusan Tingkat Kasasi Nomor 1666/K/Pdt/2022)

ABSTRAK

Kegiatan jual beli emas di Indonesia merupakan kegiatan yang digemari oleh masyarakat. Meskipun kegiatan jual beli merupakan salah satu bentuk perjanjian yang telah diatur dalam Kitab Undang-Undang Hukum Indonesia, dalam praktiknya masih terdapat terjadinya kesewenangan dalam kegiatan jual beli emas tersebut yang dilakukan oleh salah satu butik emas PT. Aneka Tambang yang menyebabkan kerugian kepada Pembeli. Hak Pembeli dalam kegiatan jual beli emas harus dilindungi agar tercapai rasa aman di masyarakat, termasuk terhadap haknya untuk mendapat pertanggungjawaban yang jelas. Pokok permasalahan: (1) Bagaimana pertimbangan hakim dalam memutuskan perkara antara Budi Said melawan PT. Antam atas kerugian yang disebabkan oleh butik emas kepada Pembeli? (2) Bagaimana seharusnya bentuk tanggung jawab Direksi atas penunjukan butik emas yang mengakibatkan kerugian kepada Pembeli? Untuk menjawab permasalahan tersebut, dilakukan penelitian secara yuridis normatif yang menggunakan data sekunder dan dianalisa secara normatif kualitatif. Kesimpulan dari penelitian ini adalah (1) Hakim memutuskan bahwa Direksi PT. Antam bertanggung jawab secara tanggung renteng atas kerugian yang ditimbulkan oleh karyawan di bawah pengurusannya berdasarkan ketentuan Pasal 1367 Kitab Undang-Undang Hukum Perdata didasarkan pada hubungan hukum antara Butik Emas, Karyawan, dan PT. Antam dengan Pembeli; (2) Direksi yang dinyatakan lalai wajib bertanggung jawab secara tanggung renteng berdasarkan Pasal 97 ayat 2 UUPH, berdasarkan KUHPPerdata, Wanprestasi yang ditimbulkan oleh Butik Emas Antam tersebut mewajibkan Perseroan untuk bertanggungjawab dengan ganti kerugian sebagaimana Pasal 1243, dalam konteks Perbuatan Melawan Hukum, Direksi wajib bertanggung jawab terhadap kesalahan karyawannya sebagaimana Pasal 1367 Kitab Undang-Undang Hukum Perdata.

Kata Kunci: tanggung jawab, Direksi, emas.

RESPONSIBILITY OF THE BOARD OF DIRECTORS OF PT. ANEKA TAMBANG REGARDING THE APPOINTMENT OF A GOLD RETAIL STORE THAT CAUSES LOSSES TO BUYERS

Abstract

Gold buying and selling activities in Indonesia are activities that are favored by the community. Although buying and selling activities are one form of agreement that has been regulated in the Indonesian Law Code, in practice there is still an arbitrariness in the gold buying and selling activities carried out by one of the gold boutiques owned by PT Aneka Tambang which causes losses to the Buyer. Buyers' rights in gold buying and selling activities must be protected in order to achieve a sense of security in society, including their right to clear accountability. Subject matter: (1) How is the consideration of the judge in deciding the case between Budi Said and PT Antam for the loss caused by the gold boutique to the Buyer? (2) How should the Board of Directors be responsible for the appointment of a gold boutique that causes loss to the Buyer? To answer these problems, normative juridical research is conducted using secondary data and analyzed normatively qualitatively. The conclusions of this study are (1) The judge decided that the Board of Directors of PT Antam is jointly and severally liable for the losses incurred by employees under its supervision based on the provisions of Article 1367 of the Civil Code based on the legal relationship between the Gold Boutique, Employees, and PT. Antam with the Buyer; (2) Directors who are declared negligent must be jointly and severally liable based on Article 97 paragraph 2 of the Company Law, based on the Civil Code, the default caused by the Antam Gold Boutique obliges the Company to be responsible for compensation as in Article 1243, in the context of a tort, the Board of Directors must be responsible for the mistakes of its employees as in Article 1367 of the Civil Code.

Keywords: *liability, Board of Directors, gold.*