

ABSTRACT

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IMPLEMENTATION TOWARDS THE FAILED REPURCHASE AGREEMENT TRANSACTION THAT'S FACING INSOLVENCY IN THE STOCK MARKET EXCHANGE BASED ON THE TORTIOUS CLAIM
(152 pages)

A Repurchase Agreement is an agreement that basically involves two agreements, where both agreements are based on an agreement with each other. The first agreement is the purchase of shares, and the second agreement, is the purchase of shares back at a price until a predetermined time. However, this Repo agreement is prone to insolvency, because when the first agreement is completed, there is still an obligation to fulfill the second agreement, and are interrelated. This is what makes OJK issue a regulation regarding this Repurchase Agreement transaction through POJK No. 9/POJK.04/2015 Guidelines for Repurchase Agreement Transactions. In its guidelines, this POJK includes GMRA as the main guide, but this GMRA is adjusted to the laws and customs that apply in Indonesia. In particular, it is explained that all the first purchase agreements are executed, then the ownership of them changes to the property of the second party. Neither party is prohibited from selling/buying shares under the Repo agreement. This is where the problem arises. On the first hand, the shares that have been purchased from the Repo proceeds are re-shared with the ownership of the repo share buyer, but on the other hand there is also a participation agreement in which the Repo share purchaser must sell them to the original shareholder. Likewise, the party who is the initial seller is obliged to buy the shares which he has repo, at the time and price that has been determined. If in the second agreement there is an insolvency, then the common lawsuit is a lawsuit for default or an act against the law. In particular, in the case that the author discusses, the author feels that a third party has been harmed. Because, the third party was sued by the party in the Repo for the shares that he had bought himself in good faith. Therefore, the author reviews the Repo agreement that has been regulated by POJK for the protection of third parties, who buy the Repo proceeds, then the author discusses the problem of this case, and the author discusses how Repo transactions are in accordance with the Indonesian GMRA Guidelines. after that, the author also provides an analysis related to the decisions of the related cases.

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