

ABSTRACT

Making an agreement must be balanced with human resources who really understand about contract law. One of the example related to the importance about it is the debate about the responsibility to return the money in the illicit agreement. Examples of the case is the case of Ir. Hj. Sarmilis with Bilkisti and Sugeng Padmono. In this case, the plaintiff (Ir. Hj. Sarmilis) requires the defendant (Bilkisti and Sugeng Padmono) to return the money which is will be used to commit bribery.

This study focuses on the consideration of the Supreme Court who judge the case in the Supreme Court of the Republic of Indonesia Number 3038 K/Pdt/2009 which granted the request of Plaintiff Appeal to return the money to him in their illicit agreement because of bribery can be justified or not. This study used a normative approach. Then analyzed by using a deductive method. Based on the results of the research, it was concluded that the petition of Cassation Plaintiff can not be granted because of the agreement between the plaintiff (Ir. Hj. Sarmilis) and the defendant (Bilkisti and Sugeng Padmono) does not fulfill the Article 1320 Civil Code about the validity of the agreement`s terms about permissible cause (objective conditions) because there are bribery`s elements inside based on Article 1335 and Article 1337 Civil Code itself is prohibited by law as those contained in Article 5 Legislation of the Republic of Indonesia Number 20/2001 on Amendments to the Legislation Number 31/1999 about Eradication of Corruption, so that the agreement is null and void, has never been considered, and the situation is back to the normal that the money is returned to the honoree employee and promised services do not need to be fulfilled. The results of the study provide advice to the Supreme Court in order to provide a more precise decisions on similar cases in the future so that the same problems do not happen again. As well as to the public to be more careful and meticulous in making of an agreement and also should pay more attention about the validity of the agreement`s terms based on Article 1320 Civil Code in order not to get a similar problem in the future.

Keywords : Agreement, Bribery, the Forbidden Causes, Null and Void