

ABSTRAK

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KEPASTIAN HUKUM *NOMINEE* DALAM PERJANJIAN PENGAKUAN UTANG DI INDONESIA

(xi + 126 lembar, 1 lampiran)

Pasal 1320 KUHPdata sudah jelas juga di tulis bahwa syarat sah dari suatu perjanjian yaitu sepakat mereka yang mengikat dirinya, cakap untuk membuat suatu perjanjian, mengenai suatu hal tertentu dan suatu sebab yang halal. Apabila perjanjian *nominee* sudah memperhatikan dan memenuhi syarat sahnya suatu perjanjian maka perjanjian *nominee* itu mempunyai kekuatan hukum mengikat bagi para pihak. Berdasarkan uraian tersebut, maka permasalahan yang akan dianalisa penulis yaitu Bagaimana kepastian hukum perjanjian *nominee* dalam hukum di Indonesia dan bagaimana kedudukan *nominee* dalam perjanjian pengakuan hutang. Penelitian ini menggunakan metode penelitian hukum yuridis normatif serta dikaitkan dengan teori-teori hukum dan asas-asas hukum melalui jenis pendekatan peraturan undang-undang, pendekatan analisis, pendekatan kasus dan pendekatan konsep. Bahwa memperhatikan pada teori-teori dan peraturan undang-undang, bahwasannya apabila terdapat pihak-pihak yang melakukan penyelundupan hukum dengan cara *nominee* ditegaskan bahwa pemilik sebidang tanah merupakan pihak yang namanya tercantum dalam sertipikat meskipun tanah tersebut dibeli menggunakan uang, harta, asset milik WNA maupun pihak lain dan Perjanjian wajib mengacu pada dasar akta otentik suatu perjanjian, dimana perjanjian haruslah dapat dipakai sebagai bukti yang kuat sebagai bentuk kepastian dan perlindungan hukum bagi para pihak. Hendaknya mensosialisasikan pelarangan terhadap penyelundupan hukum yang menggunakan modus *nominee*, dan notaris juga tidak membuat perjanjian *nominee* dengan kepentingan apapun dan hendaknya para *stakeholder*, aparat penegak hukum, profesi hukum, dan notaris mengetahui Indonesia adalah negara dengan *civil law system* sehingga perjanjian *nominee* tidak dikenal dan tidak terjadi penyelundupan hukum. Adapun apabila terdapat pihak-pihak yang melakukan penyelundupan hukum dengan cara *nominee* berdasarkan Surat Edaran Mahkamah Agung nomor 10 tahun 2020 tentang pemberlakuan rumusan hasil rapat pleno kamar mahkamah agung tahun 2020 sebagai pedoman pelaksanaan tugas bagi pengadilan. dalam rumusan hukum kamar perdata butir 4 ditegaskan bahwa pemilik sebidang tanah merupakan pihak yang namanya tercantum dalam sertipikat meskipun tanah tersebut dibeli menggunakan uang, harta, asset milik WNA maupun pihak lain.

Kata Kunci : Kepastian Hukum, *Nominee*, Pengakuan Hutang, Notaris

ABSTRACT

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LEGAL CERTAINTY NOMINEE IN DEBT RECOGNITION AGREEMENTS IN INDONESIA

(xi + 126 pages, 1 attachments)

Article 1320 of the Civil Code also clearly states that the legal requirements of an agreement are that those who are binding themselves are capable of making an agreement regarding a certain matter and a lawful cause. If the nominee agreement has paid attention to and fulfilled the legal requirements of an agreement, then the nominee agreement has binding legal force for the parties. Based on this description, the problem that the author will analyze is: how is the legal certainty of the nominee agreement in Indonesian law, and what is the position of the nominee in the debt acknowledgment agreement. This research uses normative juridical legal research methods and is associated with legal theories and legal principles through statutory regulations, analytical approaches, case approaches, and conceptual approaches. Paying attention to theories and statutory regulations, if there are parties who carry out law smuggling by means of nominees, it is emphasized that the owner of a plot of land is the party whose name is listed in the certificate, even though the land was purchased using money, assets, or assets belonging to foreigners or foreign nationals. other parties, and the agreement must refer to the basis of the authentic deed of an agreement, where the agreement must be used as strong evidence as a form of certainty and legal protection for the parties. It should socialize the prohibition against law smuggling that uses the nominee mode, and notaries should also not make nominee agreements with any interest or stakeholders, including law enforcement officials and the legal profession. Notaries should also know that Indonesia is a country with a civil law system, so that nominee agreements are unknown and no smuggling occurred. Meanwhile, if there are parties who smuggle law by means of nominees based on Supreme Court Circular Letter number 10 of 2020 concerning the implementation of the formulation of the results of the 2020 plenary meeting of the Supreme Court chamber as a guideline for carrying out tasks for the court, In the formulation of the law of the Civil Chamber, point 4, it is emphasized that the owner of a plot of land is the party whose name is listed on the certificate, even though the land was purchased using money, property, or assets owned by foreigners or other parties

Keywords: Legal Certainty, Nominee, Acknowledgment of Debt, Notary