

ABSTRACT

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INVOIDANCE OF THE DECISION OF THE INDONESIAN NATIONAL ARBITRATION BOARD DUE TO THE ARBITRATOR'S NON-NEUTRALITY (Study of Decision No. 524/Pdt.Sus-Arb/2023/PN.Jkt.Tim)

*One of the members of the arbitration panel or arbitrator who decided the BANI Arbitration case No. 45055/VII/ARB-BANI/2022 is suspected of hiding the fact that there is a relationship of interest between the arbitrator and the legal counsel of the litigants which can affect the arbitrator's neutrality in examining and adjudicating the case filed at BANI. This study aims to determine and explain the legal efforts of the litigants who are harmed by the arbitrator's non-neutrality and BANI's efforts to deal with the case of the request for cancellation of arbitration due to the non-neutrality of its arbitrator. The research was conducted using a normative legal research method with a statutory and case approach. The results of the study show that the legal efforts made by PT HK Realtindo as the party filed a request for cancellation of the arbitration to the court based on Article 70 in conjunction with Article 72 paragraph (1) of Law 30/1999. The request for cancellation of the arbitration award was granted through the Decision of the East Jakarta District Court Number 524/Pdt.Sus-Arb-2023/PN Jkt.Tim jo. with the Supreme Court Decision Number 665 B/Pdt.Sus/Arbt/2024 with the main legal consideration that the arbitration award was taken from a trick carried out by the arbitrator Jelly Nasserri together with the legal counsel of Lena et al. BANI's efforts to deal with the case of the request for cancellation of arbitration case due to the arbitrator's lack of neutrality, namely by stating that the examination of the BANI arbitration case uses the BANI Regulations and Procedures of 2022 as the applicable procedural law and binds the parties, so that it can set aside Articles 70 to 72 of Law of 30/1999 according to the legal principle of *lex specialis derogate legi generali*. However, in the end the East Jakarta District Court decided to cancel the BANI Arbitration Decision and BANI took legal action by filing an appeal to the Supreme Court based on Article 72 paragraph (4) of Law of 30/1999. Then, the Supreme Court through Decision Number 665 B/Pdt.Sus-Arbt/2024 upheld the Decision of the East Jakarta District Court Number 524/Pdt.Sus-Arb/2023/PN Jkt.Tim.*

Keywords: cancellation of arbitration decision, non-neutrality, arbitrator

References: 34 books; 4 laws and regulations; 7 journals. (1976-2024)