

ABSTRAK

Pada prinsipnya Perseroan memperoleh status badan hukum sejak diterbitkannya keputusan Menteri Hukum dan HAM. Sebelum berstatus badan hukum diperoleh para pendiri masing-masing dapat bertindak mewakili Perseroan baik didalam maupun diluar pengadilan. Putusan Mahkamah Agung Nomor 1125 k/Pdt/2012 yang terkait dengan kewenangan bertindak para pendiri untuk mewakili Perseroan dalam mengajukan gugatan ke pengadilan. Dengan permasalahan yang diangkat yaitu Apakah direksi Andreas Pabs dapat mewakili PT. Pit Holdings Insvestment Indonesia yang belum berbadan hukum mengajukan gugatan kepada Ulrich Peter Neu dan Bagaimana bentuk tanggung jawab Ulrich Peter Neu terhadap biaya yang dipercayakan oleh Andreas Pabs.

Metode penelitian yang digunakan adalah penelitian hukum normatif. Adapun pendekatan yang dilakukan adalah pendekatan Kasus (*Case Approach*).

Berdasarkan analisis yang diperoleh dapat disimpulkan bahwa selama Perseroan belum mendapat pengesahan menjadi badan hukum, maka pada direksi belum mempunyai kewenangan untuk mewakili Perseroan baik didalam maupun diluar pengadilan. Akan tetapi perbuatan tersebut dapat dilakukan oleh semua anggota Direksi bersama-sama semua pendiri serta semua anggota Dewan Komisaris Perseroan dan mereka bertanggung jawab secara tanggung renteng. Ulrich Peter Neu tidak melakukan prestasinya kepada Andreas Pabs sehingga ia wajib membayar ganti rugi dan bunga kreditor yang disebabkan karena wanprestasi.

Kata Kunci: Tanggungjawab, Badan Hukum, Perseroan Terbatas.

ABSTRACT

In principle, the Company obtained the status of legal entity from the issuance of the decision of the Minister of Justice and Human Rights. Before the legal status acquired, the founders of each can act on behalf of the Company both inside and outside the court. Supreme Court Decision No. 1125 K / Pdt / 2012 which related to the authority to act the founders to represent the Company in filing a lawsuit to court. With the issues raised, namely Is Andreas Pabs directors can represent PT. Pit Holdings Investment Indonesia that has not yet a legal entity filed a lawsuit against Ulrich Peter Neu and How Ulrich Peter Neu to be responsible towards the cost of which is entrusted by Andreas Pabs.

The method that used in this research is normative legal research. The approach that used is Case Approach.

Based on the analysis obtained can be concluded that as long as the Company has not received approval to have legal entity, then people on the board of directors does not have the authority to represent the Company, both inside and outside the court. However, such actions can be undertaken by all members of the Board of Directors together all the founders as well as all members of the Board of Commissioners and they are responsible jointly and severally. Ulrich Peter Neu did not accomplishments to Andreas Pabs so that he is obliged to pay compensation and creditor interest caused by default.

Keywords: Responsibility, Legal entity, Limited Liability Company.