

ABSTRAK

PERLINDUNGAN HUKUM BAGI PERUSAHAAN ASURANSI DALAM SENGKETA PENGANGKUTAN LAUT AKIBAT KELALAIAN PIHAK KETIGA MELALUI PRINSIP SUBROGASI (Studi Putusan Mahkamah Agung Nomor 1203 K/Pdt/2017)

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Hak subrogasi dalam asuransi idealnya berfungsi sebagai mekanisme pemulihan hak bagi perusahaan asuransi setelah melakukan pembayaran klaim kepada tertanggung. Dalam praktiknya, hal tersebut sering kali menjadi sumber sengketa hukum yang kompleks terutama ketika pihak ketiga yang bertanggung jawab atas kerugian seperti perusahaan pengangkutan dan perusahaan bongkar muat menolak tanggung jawab dengan berlindung di balik klausul pembatasan tanggung jawab dalam *Bill of Lading*. Permasalahan dalam penelitian ini dilakukan dengan menganalisis pertimbangan hukum hakim dalam Putusan Mahkamah Agung Nomor 1203 K/Pdt/2017 terkait kelalaian pihak pengangkut, serta menelaah akibat hukumnya terhadap perlindungan hukum perusahaan asuransi dalam sengketa pengangkutan laut. Metode penelitian yang digunakan yaitu penelitian normatif, dengan pendekatan perundang-undangan dan pendekatan kasus. Hasil penelitian menunjukkan bahwa putusan Mahkamah Agung tersebut menegaskan kedudukan hukum yang kuat bagi hak subrogasi sebagaimana diatur dalam Pasal 284 Kitab Undang-Undang Hukum Dagang (KUHD), dengan menempatkan tanggung jawab pihak pengangkut dalam ranah perbuatan melawan hukum berdasarkan Pasal 1365 Kitab Undang-Undang Hukum Perdata (KUHPerdato). Pengadilan mengesampingkan klausul pembatasan tanggung jawab dalam *Bill of Lading* karena terbukti bahwa kerugian disebabkan oleh kelalaian tergugat. Selain itu, penetapan tanggung jawab secara tanggung renteng antara pihak-pihak terkait mencerminkan perlindungan hukum substantif bagi perusahaan asuransi dalam memulihkan haknya melalui subrogasi. Penelitian ini merekomendasikan perlunya penyempurnaan regulasi mengenai pelaksanaan hak subrogasi dalam pengangkutan laut, peningkatan standar kehati-hatian industri maritim, serta konsistensi penerapan yurisprudensi Mahkamah Agung agar hak subrogasi dapat dijalankan secara efektif dan memberikan kepastian hukum bagi perusahaan asuransi di Indonesia.

Kata Kunci: Asuransi, Kelalaian, Pengangkutan Laut, Pihak Ketiga, Subrogasi.

ABSTRACT

LEGAL PROTECTION FOR INSURANCE COMPANIES IN SEA TRANSPORTATION DISPUTES ARISING FROM THIRD PARTY NEGLIGENCE THROUGH THE PRINCIPLE OF SUBROGATION (A Study of Supreme Court Number 1203 K/Pdt/2017)

By

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The right of subrogation in insurance is ideally intended as a mechanism for restoring the insurer's rights after settling a claim to the insured. However, in practice, this right often becomes a source of complex legal disputes, particularly when third parties responsible for the loss such as shipping companies and stevedoring operators deny liability by invoking limitation-of-liability clauses contained in the Bill of Lading. This study aims to examine the judicial considerations of the Supreme Court in Decision No. 1203 K/Pdt/2017 regarding negligence by the carrier, as well as to analyze its legal implications for the protection of insurance companies in sea transportation disputes. This research employs a normative legal method with qualitative analysis of relevant legislation, legal doctrines, and jurisprudence. The findings reveal that the Supreme Court affirms the strong legal position of the insurer's right of subrogation as provided under Article 284 of the Indonesian Commercial Code (KUHD), and places the carrier's liability within the domain of tort under Article 1365 of the Indonesian Civil Code (KUHPerdata). The Court disregards the limitation-of-liability clause in the Bill of Lading on the basis that the loss resulted from the defendant's negligence. Furthermore, the imposition of joint and several liability among the involved parties reflects substantive legal protection for insurers in exercising their subrogation rights. This study recommends strengthening regulations governing the implementation of subrogation in maritime transport, enhancing due diligence standards within the maritime industry, and ensuring consistency in the application of Supreme Court jurisprudence so that subrogation can operate effectively and provide legal certainty for insurance companies in Indonesia.

*Keywords: Insurance, Negligence, Sea Transportation, Third Parties,
Subrogation.*