

ABSTRAK

PENERAPAN ASAS *NE BIS IN IDEM* DALAM PEMBATALAN PERJANJIAN SECARA SEPIHAK (Studi Putusan Mahkamah Agung Nomor: 1922 K/Pdt/2023)

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Surat Edaran Mahkamah Agung (SEMA) No. 3 Tahun 2002 menyatakan bahwa hakim wajib menolak gugatan apabila diketahui perkara telah diputus dengan putusan pengadilan yang telah berkekuatan hukum tetap karena dianggap mengandung asas *ne bis in idem*. Asas *ne bis in idem* seringkali digunakan tergugat dalam dalil eksepsi agar hakim tidak memeriksa kembali pokok perkara. Seperti pada perkara gugatan perbuatan melawan hukum dalam pembatalan perjanjian sewa guna usaha secara sepihak di Pengadilan Negeri Kotamobagu. Berdasarkan hal tersebut maka tujuan penelitian ini akan mengkaji mengenai penerapan asas *ne bis in idem* dan upaya hukum yang dapat dilakukan terhadap perkara pada Putusan Nomor 1922 K/Pdt/2023.

Penelitian ini adalah penelitian hukum normatif dengan tipe deskriptif. Pendekatan masalah yang digunakan adalah pendekatan peraturan perundang-undangan dan kasus, teknik pengumpulan data melalui studi kepustakaan dan studi dokumen. Kemudian diolah dan dianalisis secara kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa penerapan asas *ne bis in idem* dalam perkara pada Putusan Nomor 1922 K/Pdt/2023., sudah diperiksa dan diputus dalam perkara sederhana Nomor 26/Pdt.G.S/2019/PN Ktg., Nomor 27/Pdt.G.S/2019/PN Ktg., Nomor 28/Pdt.G.S/2019/PN Ktg., Nomor 29/Pdt.G.S/2019/PN Ktg., dan sudah berkekuatan hukum tetap. Unsur kesamaan pihak, objek, dan alasan terpenuhi, sehingga asas *ne bis in idem* berlaku. Upaya hukum yang dapat dilakukan terhadap penerapan asas *ne bis in idem* dalam perkara pada Putusan Nomor 1922 K/Pdt/2023 yaitu mengajukan gugatan baru dengan objek sengketa yang berbeda secara substansial dengan perkara sebelumnya dan belum pernah diberi status hukum oleh putusan pengadilan.

Kata Kunci: Asas *Ne Bis In Idem*, Pembatalan Perjanjian, Putusan Hakim

ABSTRACT

APPLICATION OF THE PRINCIPLE OF NE BIS IN IDEM IN UNILATERAL CANCELLATION OF AGREEMENTS (Study of Supreme Court Decision Number: 1922 K/Pdt/2023)

By

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Supreme Court Circular Letter (SEMA) No. 3 of 2002 states that the judge must reject the lawsuit if it is known that the case has been decided by a court decision that has permanent legal force based on the ne bis in idem principle. The principle ne bis in idem is often used by the defendant in the argument of exception so that the judge does not re-examine the subject matter. As in the case of an unlawful action lawsuit in the unilateral cancellation of the lease agreement at the Kotamobagu District Court. Based on this, the aim of this research will examine the application of the principle ne bis in idem and the legal remedies that can be taken against the case in Decision Number 1922 K/Pdt/2023.

This research is a normative legal research with a descriptive type. The problem approach used is the approach of laws and regulations, and data collection techniques through literature studies and document studies. Then it is processed and analyzed qualitatively.

The results of the research and discussion show that the application of the principle ne bis in idem in the case in Decision Number 1922 K/Pdt/2023., has been examined and decided in a simple case Number 26/Pdt.G.S/2019/PN Ktg., Number 27/Pdt.G.S/2019/PN Ktg., Number 28/Pdt.G.S/2019/PN Ktg., Number 29/Pdt.G.S/2019/PN Ktg., and has permanent legal force, so that the elements of the same parties, the same object, and the same reason in the application of the principle ne bis in idem are fulfilled. The legal remedies that can be taken against the application of the principle ne bis in idem in the case in Decision Number 1922 K/Pdt/2023 are to file a new lawsuit with a dispute object that is substantially different from the previous case and has never been given legal status by a court decision.

Keywords: Principle Ne Bis In Idem, Agreement Cancellation, Court Decision