

ABSTRAK

Penelitian dengan judul “*Dissenting Opinion* Hakim Terhadap Gugatan *Niet Ontvankelijke Verklaard* Dan Gugatan Dikabulkan (Studi Putusan Nomor 16/PDT.G/2017/PN.Mejayan)”, dengan latar belakang masalah adalah Hakim Ketua melakukan *Dissenting Opinion* bahwa gugatan yang diajukan oleh Penggugat mengandung cacat formil yaitu kurang pihak sehingga gugatan tidak dapat diterima, tetapi *Majority Opinion* Hakim berpendapat bahwa gugatan memenuhi syarat formal pada pokok perkara sehingga hakim memutus gugatan dikabulkan sebagian. Peneliti tertarik atas putusan tersebut untuk meneliti dengan rumusan masalah *Dissenting Opinion* hakim ketua terhadap gugatan *niet ontvankelijke verklaard* dan gugatan dikabulkan serta akibat hukumnya. Metode penelitian yang digunakan dalam penelitian ini adalah metode pendekatan normatif, yaitu penelitian dilakukan dengan bahan sekunder. Hasil penelitian Hakim Ketua melakukan *Dissenting Opinion* menyatakan gugatan penggugat kurang pihak seharusnya badan hukum KSU Sejahtera Bersama dijadikan pihak di dalam perkara sebagai peminjaman uang yang dilakukan pertama kali oleh penggugat ikut bertanggungjawab, seharusnya gugatan tidak dapat diterima dan gugatan tersebut sangat premature. *Majority Opinion* hakim bahwa gugatan memenuhi syarat formal sehingga hakim mengabulkan gugatan sebagian mengenai Tergugat I dan Tergugat II telah melakukan perbuatan melawan hukum sesuai unsur Pasal 1365 Kitab Undang-undang Hukum Perdata. Pengambilan putusan berdasarkan sidang permusyawaratan hakim tidak dicapai mufakat bulat maka putusan dapat dinyatakan dengan mengikuti pertimbangan *Majority Opinion* hakim isi putusan mengabulkan sebagian menyatakan Tergugat I dan Tergugat II melakukan Perbuatan Melawan hukum dengan menghukum membayar ganti kerugian Rp. 2.995.000 (dua juta sembilan ratus sembilan puluh lima ribu rupiah). Akibat hukum tergugat atas putusan tersebut dapat melakukan upaya hukum banding.

Kata kunci: *Dissenting Opinion*, *Niet Ontvankelijke Verklaard*, gugatan dikabulkan

ABSTRACT

Research with the title "Dissenting Judge Opinion Against Lawsuit Niet Ontvankelijke Verklaard And Lawsuit Granted (Study of Decision Number 16 / PDT.G / 2017 / PN.Mejayan)", against the background of the problem is the Chief Judge conducted a Dissenting Opinion that the claim filed by the Plaintiff contained formal flaw, namely lack of parties so that the lawsuit cannot be accepted, but the Majority Opinion of the Judge believes that the lawsuit meets the formal requirements on the subject matter so that the judge decides the claim to be partially granted. The researcher is interested in the decision to investigate the formulation of the Dissenting Opinion problem of the presiding judge against the niet ontvankelijke verklaard lawsuit and the claim being granted and its legal consequences. The research method used in this study is the normative approach method, that is, research is conducted with secondary material. The results of the Chief Judge's research conducted Dissenting Opinion stated that the plaintiff's claim was less than the party should the KSU Sejahtera Bersama legal entity be used as a party in the case as borrowing money for the first time by the plaintiff to take responsibility, the lawsuit should not be accepted and the lawsuit was very premature. The Majority Opinion of the judge that the lawsuit fulfills the formal requirements so that the judge granted a partial claim regarding Defendant I and Defendant II has committed acts against the law in accordance with Article 1365 of the Civil Code. Taking the decision based on the judge's deliberation session was not reached unanimous agreement, the decision can be declared by following the consideration of the Majority Opinion, the judge's content of the award granted partly stated Defendant I and Defendant II conducted an act against the law by punishing to pay compensation Rp. 2,995,000 (two million nine hundred ninety-five thousand rupiah). The legal consequences of the defendant in the decision can be appealed.

Keywords: Dissenting Opinion, Niet Ontvankelijke Verklaard, lawsuit granted