

Upaya Hukum Banding Terhadap Pembatalan Putusan Arbitrase Proyek Reklamasi Pelabuhan Belawan Yang Tidak Dapat Diterima

(Studi Putusan No. 465B/Pdt.Sus-Arbt/2020 j.o Putusan No.287/Pdt.G/2019/PN Mdn)

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ABSTRAK

Arbitrase sebagai alternatif penyelesaian sengketa non litigasi atau diluar pengadilan. Putusan arbitrase dibuat oleh suatu lembaga yang disebut Badan Arbitrase Nasional Indonesia atau bisa disingkat dengan BANI. Putusan arbitrase bersifat final dan mengikat, dan harus dilaksanakan. Akan tetapi setelah diputus BANI, muncul gugatan pembatalan. Putusan arbitrase dapat diajukan pembatalan melalui permohonan yang diajukan oleh pemohon ke Pengadilan Negeri setempat dengan alasan pembatalan sesuai dengan ketentuan pasal 70 Undang-undang no 30 tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa. penelitian terhadap Putusan Nomor 465B/Pdt.Sus-Arbt/2020 j.o Putusan Nomor.287/Pdt.G/2019/PN Mdn. Majelis Hakim pada tingkat pertama menolak pembatalan putusan arbitrase, penggugat mengajukan banding ke Mahkamah Agung, kemudian Majelis Hakim pada tingkat akhir memberikan putusan berupa pembatalan putusan arbitrase tidak dapat diterima. Metode penelitian yang digunakan dalam penelitian ini yaitu yuridis normative dengan analisis normative kualitatif. Spesifikasi penelitian deskriptif analitis. Sumber data sekunder. Metode pengumpulan data yaitu kepustakaan. Metode penyajian data naratif. Hasil Penelitian: 1) Pertimbangan hukum hakim Mahkamah Agung yang dalam memutus gugatan yang dinyatakan tidak dapat diterima. Karena tidak terpenuhinya syarat materil dan formil, sesuai dengan ketentuan Pasal 70 dan pasal 71 UUAAPS serta SEMA No.4 tahun 2006. 2) Akibat hukum dengan putusan banding yang dinyatakan tidak dapat diterima yaitu pemohon harus menjalankan isi putusan BANI, karena permohonan pembatalan putusan arbitrase tidak dapat diterima.

Kata Kunci: Arbitrase, Banding, Pembatalan Putusan Arbitrase

**Legal Efforts on Lawsuit Against the Unacceptable Cancellation of the Belawan Port
Reclamation Project Arbitration Award**

(Study of Decision No. 465B/Pdt.Sus-Arbt/2020 j.o Decision No.287/Pdt.G/2019/PN Mdn)

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ABSTRACT

Arbitration as an alternative to resolving non-litigation or non-litigation disputes The arbitral award is made by an institution called the Indonesian National Arbitration Board or can be abbreviated as BANI. The arbitral award is final and binding, and must be enforced. However, after being terminated by BANI, a lawsuit arose for cancellation. An arbitration decision can be filed for cancellation through an application submitted by the applicant to the local District Court on the grounds of cancellation in accordance with the provisions of Article 70 of Law number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The research of Decision Number 465B/Pdt.Sus-Arbt/2020 j.o Decision Number.287/Pdt.G/2019/PN Mdn. The Panel of Judges at the first level rejected the cancellation of the arbitral decision, the plaintiff filed an appeal to the Supreme Court, then the Panel of Judges at the final level gave a decision in the form of annulment of the arbitral decision which was unacceptable. The researcher uses normative juridical. Legislative approach method. Prescriptive research specifications. Secondary data sources. The data collection method is literature study. Narrative data presentation method. The results of the study: 1) The legal considerations of supreme court judges who in deciding a lawsuit are declared inadmissible. Due to the non-fulfillment of material and formal requirements, in accordance with the provisions of Article 70 and article 71 of UUAAPS and SEMA No.4 of 2006. 2) The legal consequence of an appeal decision that is declared unacceptable is that the applicant must carry out the contents of the BANI decision, because the request for the cancellation of the arbitral decision cannot be accepted.

Keywords: Arbitration, Lawsuit, Cancellation of Arbitration Award