

ABSTRAK

Citizen lawsuit merupakan gugatan yang diajukan oleh warga negara mewakili kepentingan umum, menggugat pemerintah yang melanggar Undang-Undang atau gagal mengimplementasi amanat Undang-Undang. *Citizen lawsuit* belum diatur dalam sistim peraturan perundang-undangan Indonesia, sehingga muncul masalah dalam penerapan mekanisme penyelesaiannya. *Citizen lawsuit* yang sedang hangat diperbincangkan ialah gugatan atas dasar perbuatan melawan hukum terhadap pemerintah, karena telah lalai melaksanakan kewajibannya sesuai amanat Undang-Undang Sistem Jaminan Sosial Nasional. Pengadilan Negeri berpendapat bahwa kelalaian tersebut memenuhi unsur perbuatan melawan hukum dan termasuk dalam kompetensinya, sedangkan Pengadilan Tinggi berpendapat bahwa badan peradilan umum tidak berwenang mengadili perkara ini.

Penelitian ini bertujuan untuk mengetahui dasar pertimbangan hakim Pengadilan Tinggi DKI Jakarta menerima upaya banding pemerintah terhadap putusan Pengadilan Negeri Jakarta Pusat, serta mengetahui akibat hukum dikabulkannya upaya banding tersebut. Penelitian ini menggunakan metode pendekatan yuridis normatif melalui pendekatan peraturan perundang-undangan dan penelitian secara deskriptif analitis dengan mendeskripsikan dan menganalisis data sekunder dikaitkan dengan teori-teori hukum.

Hasil penelitian ini menunjukan bahwa pertimbangan hakim Pengadilan Tinggi DKI Jakarta menerima upaya banding dari pemerintah berdasarkan pada ketentuan pasal 5 dan pasal 20 Undang-Undang Dasar Tahun 1945, yang pada intinya menegaskan bahwa kewenangan legislatif dan eksekutif diperoleh atas amanat Undang-Undang dan bukan menjadi kewenangan badan peradilan umum untuk memerintahkan kepada kedua lembaga negara tersebut agar membentuk Undang-Undang. Akibat hukum diterimanya upaya banding tersebut ialah selama para pihak menerima putusan Pengadilan Tinggi dan tidak ada upaya hukum lagi, maka putusan Nomor 404/PDT/2012/PT.DKI berkekuatan hukum tetap dan mengikat para pihak.

Kata Kunci : *Citizen Lawsuit*, Upaya Hukum Banding.

ABSTRACT

Citizen lawsuit is a lawsuit filed by citizens represent the interest of common, sues government broke the law or fail implementing the message of the act. Citizen lawsuit not been managed in systems legislation indonesia, so that problems arise in the application of the solution mechanism. Citizen lawsuit that moderately warm talk about is a lawsuit on the basis of an unlawful act against the government, because it has been negligent discharge its liabilities mandated in the act of national social security system. District court thought that this neglect meet element illegal actions and included in competence, while the high court thought that general courts not authorized judge this thing.

This report aims to understand basis of consideration of the high court jakarta received a government against the appeals court decisions central jakarta state, and know he received the law the appeal. This research uses the method approach normative juridical persuasion legislation and research a sort of descriptive set analytical with described and analyze secondary data associated with legal theories.

The result of this research are showing that in consideration court judge jakarta high receive efforts an appeal from the government based on in the provision of article 5 and article 20 of the constitution 1945, in essence stressed that authority legislative and executive obtained on the message of laws and not becoming authority general courts to instruct to the state institutions so that the form a law. Due to law he received efforts the appeal is during the parties receive judicial decisions high and no effort law again, so the judgment number 404 /PDT/ 2012 / PT.DKI to be fixed law and binding the parties.

Keywords: *Citizen Lawsuit, The Legal Appeals.*