

ABSTRACT

DUE TO WANPRESTATION LAW OF THE BUILDING OPERATE TRANSFER AGREEMENT (BOT) BETWEEN PRIVATE GOVERNMENTS (CASE STUDY OF LAPPADE PARE PARE BULOG SUBDIVER BULOG CONTRACT AGREEMENT WITH UD PADI INDAH)

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The Build Operate and Transfer (BOT) agreement between the regional government (Perum Bulog) and the private sector UD Padi Indah was formed in the implementation of the Genset Repair Contract and the UPB Lappade RMP Component Number Pk: 015 / 21D00 / 11/2018.

This study aims to explain the legal consequences of the transaction delay in the Build Operate and Transfer (BOT) agreement between Bulog Corporation and UD Padi Indah which requires that some forms of constructing rice milling machines be carried out under an agreement made in the form of an agreement under the hand and due to the cancellation agreement on Build Operate and Transfer / BOT agreements.

The method used is normative juridical, namely examining legal norms contained in legislation. This study concludes that in the Build Operate and Transfer / BOT agreement before the establishment of the Republic of Indonesia State Military Enterprise Minister Regulation Number Per-19 / MBU / 2012 concerning the Guidelines for Delaying Business Transactions indicated by Deviations and / or Fraud but fulfills provisions of the legal conditions of the agreement of Article 1320 of the Civil Code so that it has a position as authentic evidence and the cooperation agreement is also domiciled as a statutory regulation. In the Build Operate and Transfer (BOT) agreement, the legal terms of the agreement are outside the provisions of the Civil Code, and if they are not carried out, they will be deemed to have never existed even if they fulfill the legal requirements of the Article 1320 Civil Code agreement. The legal consequences of the claim and a fine of 5% in accordance with the delay in the work stipulated in the agreement unilaterally because defaults that do not meet the cancellation requirements of Article 1266 of the Civil Code, can be considered illegal because they are not based on good faith and must be accompanied by the handover of goods (BAST).

Keyword: Government cooperation agreement, wake up to deliver, Wanprestasi.

ABSTRAK

AKIBAT HUKUM WANPRESTASI DARI BANGUNAN PERJANJIAN TRANSFER OPERATE (BOT) ANTARA PEMERINTAH SWASTA (STUDI KASUS PERJANJIAN KONTRAK BULOG LAPPADE PARE PARE BULOG DENGAN UD PADI INDAH)

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Perjanjian Build Operate and Transfer (BOT) antara pemerintah daerah (Perum Bulog) dan sektor swasta UD Padi Indah dibentuk dalam pelaksanaan Kontrak Perbaikan Genset dan Komponen RMP Lappade UPB Nomor Komponen Pk: 015 / 21D00 / 11/2018 .

Penelitian ini bertujuan untuk menjelaskan konsekuensi hukum dari keterlambatan transaksi dalam perjanjian Build Operate and Transfer (BOT) antara Bulog Corporation dan UD Padi Indah yang mensyaratkan bahwa beberapa bentuk pembangunan mesin penggilingan padi dilakukan berdasarkan perjanjian yang dibuat dalam bentuk perjanjian di bawah tangan dan karena perjanjian pembatalan pada Build Operate and Transfer / BOT. Metode yang digunakan adalah yuridis normatif, yaitu memeriksa norma-norma hukum yang terkandung dalam undang-undang.

Penelitian ini menyimpulkan bahwa dalam perjanjian Build Operate and Transfer /BOT sebelum pembentukan Peraturan Menteri Negara Militer Perusahaan Republik Indonesia Nomor Per-19 / MBU / 2012 tentang Pedoman Penundaan Transaksi Bisnis yang ditunjukkan oleh Penyimpangan dan / atau Penipuan tetapi memenuhi ketentuan kondisi hukum perjanjian Pasal 1320 KUH Perdata sehingga memiliki posisi sebagai bukti otentik dan perjanjian kerja sama juga berdomisili sebagai peraturan perundang-undangan. Dalam perjanjian Build Operate and Transfer (BOT), syarat-syarat hukum perjanjian tersebut berada di luar ketentuan KUH Perdata, dan jika tidak dilakukan, mereka akan dianggap tidak pernah ada bahkan jika mereka memenuhi persyaratan hukum perjanjian Pasal 1320 KUH Perdata. Konsekuensi hukum dari klaim dan denda 5% sesuai dengan keterlambatan pekerjaan yang ditetapkan dalam perjanjian secara sepihak karena wanprestasi yang tidak memenuhi persyaratan pembatalan Pasal 1266 KUH Perdata, dapat dianggap ilegal karena mereka tidak berdasarkan itikad baik dan harus disertai dengan serah terima barang (BAST).

Kata kunci: Perjanjian kerja sama pemerintah, Bangun Guna Serah, Wanprestasi