



## The Responsibilities of the Directors of the Limited Liability Company to the credit of PT. Putera Daya Perkasa based on Act No. 40 of 2007 concerning Limited Liability Companies

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**Abstract.** *The purpose of this study is to determine the position, role and responsibilities of the directors of a limited liability company in relation to credit in Indonesia, and to find out if there is an abuse of the authority of a limited liability company by directors who take refuge and like to take advantage of the weaknesses of the applicable laws and regulations. The limited liability company has obtained the status of a legal entity, meaning that liability is limited to the company's assets, but to avoid having company management in running the company deviate from the rule of law, the result is formulated that Act No. 40 of 2007 concerning Limited Liability Companies, in principle adheres to limited liability principle. Provisions in Article 3 paragraph (1). Limited responsibility for each board of directors.*

**Keywords:** *Company; Credit; Investation; Share.*

### 1. Introduction

The Board of Directors is someone who leads and runs a company consisting of one or more directors, if there are more than one director, then one of them is appointed as the Main Director.<sup>1</sup>

Legal entities according to their form are the division of legal entities based on their

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<sup>1</sup>Adiningsih, Ni Komang Nea, and M. Marwanto. "Tanggungjawab Organ Perseroan Terbatas (PT) Dalam Hal Kepailitan." *Kertha Semaya: Jurnal Ilmu Hukum*, 7 (6) (2019): p. 1-16.

founding role, namely there are 2 (two) types, including:<sup>2</sup>

- a. Public Legal Entities such as State, Provincial, Assemblies, agencies and State Banks;
- b. Private Legal Entities such as Limited Liability Companies, Private Insurance Companies.

Business entities with legal entities are business entities that have rights and obligations, for example Limited Liability Companies, Foundations and Cooperatives and while business entities that are not legal entities do not have rights and obligations.<sup>3</sup>for example Civil Partnership, Firm, Limited Partnership (CV).

The responsibility of a business entity with a legal entity is limited, such as a limited liability company, to the number of shares owned by shareholders in a limited liability company, while the responsibility of a business entity that is not a legal entity is not limited, depending on the position of its partners, there are passive and active partners, such as in limited partnerships (CV).<sup>4</sup>

Some of the factors people choose to form a Limited Liability Company business are as follows:

- a. Protected by law;
- b. There is a separation of assets;
- c. Easy transfer of ownership;
- d. More professional ;
- e. Wider business access;
- f. Can ally with other parties and foreigners;

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<sup>2</sup>Santosa, A. G. D. H. (2019). *PERBEDAAN BADAN HUKUM PUBLIK DAN BADAN HUKUM PRIVAT*. *Jurnal Komunikasi Hukum (JKH)*, 5(2), p. 152–166.

<sup>3</sup>Dr. H. Salle, S. S. (2019). *Hukum Kontrak: Teori dan Praktik*. *SIGn Jurnal Hukum*, p. 47

<sup>4</sup> Dharmawan, N. K. (2015). "Keberadaan Pemegang Saham Dalam Rups Dengan Sistem Teleconference Terkait Jaringan Bermasalah Dalam Perspektif Cyber Law." *Jurnal Magister Hukum Udayana* 4(1), p. 44188



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Duties and authorities of the Board of Directors in the case of PT. PUTERA DAYA PERKASA domiciled in Tangerang Regency and it is clear in the Articles of Association of the Company that Mr. GUNARKO PAPAN as the Main Commissioner and also as a shareholder in the company and filed a lawsuit against Mrs. SIAULLY PAPAN as a Director (Director) and also as a shareholder in the company which deed of establishment was drawn up before Mr. RIDWAN SUSELO, Notary in Jakarta, Number 208 dated March 31, 1973 and received approval based on the Decree of the Minister of Justice of the Republic of Indonesia dated September 9, 1976 No. YES 5/455/21 and has been announced in the State Gazette of the Republic of Indonesia dated 16 August 1994 No. 5 Supplement No. 5588 and has undergone several amendments and the last one was made before Sukawaty Sumadi,

It is the kindness of a business entity that is a legal entity such as a Limited Liability Company which is regulated by law and legally registered at sisminbakum. The authority and responsibility of the Board of Directors is to lead and manage the company in accordance with the interests and objectives of the company, control, maintain and manage the company's assets.<sup>5</sup>

## 2. Research Methods

This research<sup>6</sup> is a descriptive analysis research. Research using descriptive analysis that describes the applicable laws and regulations associated with legal theory and positive legal practice with research problems.

## 3. Results and Discussion

A company is a legal entity which is a capital partnership established based on an agreement to carry out business activities with authorized capital which is entirely divided into shares and fulfills the requirements stipulated in the Law and in its

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<sup>5</sup>Anindita, F. E. (2023). *PERLINDUNGAN HUKUM TERHADAP PEMENANG LELANG YANG BERITIKAD BAIK TERHADAP LELANG ASET HAK TANGGUNGAN YANG DI GUGAT OLEH DEBITUR (STUDI PUTUSAN MAHKAMAH AGUNG NOMOR 10 K/Pdt/2021)*. Undergraduate thesis, p. 7

<sup>6</sup>Normayunita, N. K., & Darmadi, A. A. S. W., (2016). *Tanggung Jawab Direksi Atas Kepailitan Perseroan Terbatas Menurut Undang-Undang Nomor 40 Tahun 2007*. *Kertha Jurnal Kertha Semaya*, Vol. 8(6) Tahun 2020, p. 954-966

implementing regulations the legal basis is Act No. 40 of 2007.<sup>7</sup>

Limited Liability Company is the most preferred form of business entity or company because it has limited liability.

Limited Liability Company characteristics:<sup>8</sup>

- a. Has a commercial function as well as an economic function.
- b. Incorporated:
- c. The capital is collected from various shares.
- d. The organs of the Limited Liability Company are the General Meeting of Shareholders, the Board of Directors and the Board of Commissioners.

In drawing up a Limited Liability Company Deed, it must be before an authorized official, namely a Notary, which in the company's articles of association will later obtain approval from the Minister of Law and Human Rights of the Republic of Indonesia, among other things, must include:

- a. Name and domicile of the Company;
- b. The period of establishment of the company;
- c. Purpose and Objectives and Business Activities of the company;
- d. The Company's Capital includes Authorized Capital and Paid-up Capital;
- e. Share value; And
- f. Composition of management and shareholders.

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<sup>7</sup>Wulandewi, I. A. (2019). "Kedudukan Hukum Perseroan yang Anggaran Dasarnya Tidak Sesuai dengan Undang-Undang No. 40 Tahun 2007 Tentang Perseroan Terbatas." *Kertha Negara: Journal Ilmu Hukum* 7, p. 1-20.

<sup>8</sup>Setianto, V. (2017). *PERTANGGUNGJAWABAN PRIBADI DIREKSI PADA PERSEROAN TERBATAS YANG PAILIT. MIMBAR YUSTITIA*, 1(2), p. 202-222.



### 3.1 History of the Putera Daya Perkasa Limited Liability Company and the position of PT. Putera Daya Perkasa Tasks, Putera Daya Perkasa Company

Steps PT Putera Daya Perkasa (Persero), hereinafter referred to as PT Putera Daya Perkasa, domiciled in Central Jakarta City Putera floor 3, Jalan Gunung Sahari, Number 39, Jakarta zip code 10720, Rukun Tetangga 018 or Rukun Warga 003, North Gunung Sahari, Big Rice Field, Central Jakarta. PT Putera Daya Perkasa is a company engaged in the industrial sector. And made changes to the Articles of Association of PT. Putera Daya Perkasa was held on 9 November 2018.

### 3.2. Shareholders of the Putera Daya Perkasa Limited Liability Company

Shareholders consist of:

- a. Tuan Gunarko Nominal Board IDR 4,350,000,000,- Percentage 17.36%
- b. Mrs. Mutiara Board Nominal IDR 4,350,000,000,- Percentage 17.36%
- c. Mrs. Mirawati Nominal Board IDR 4,350,000,000,- Percentage 17.36%
- d. Mrs. Siaully Nominal Board IDR 4,350,000,000,- Percentage 17.36%
- e. PT. Dayakonsolindo Universal Source Nominal IDR 7,650,000,000,- Percentage 30.54%

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Name	Position
Mrs Siaully Papan	Director
Mr. Gunarko Papan	The main commissioner
Mrs. Mirawati Papan	Commissioner I

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### **3.3. Analysis of the Responsibilities of the Directors of the Limited Liability Company PT. Mighty Power Son**

As it is known that the legal subject can be a person or legal entity as referred to in the Limited Liability Company Law. Limited Liability Company as a legal entity can act in legal traffic. the actions of this legal entity are carried out by its management. these actions are accountable to legal entities.

Each position has duties and obligations as well as authority. These obligations and authorities must be carried out properly. If the duties and obligations are neglected or the authority of the position has been misused, it will bring consequences to the officials who neglect it.<sup>9</sup>Likewise with positions in a limited liability company, in this case, the directors in their position as the owner/holder of the highest authority<sup>10</sup>in a limited liability company.

### **3.4 Position Case**

Mr Gunarko Papan sued Mrs Siaully Papan, Mrs Mutiara Papan, Mrs Mirawati Papan, and PT. Dayakonsolindo Sumber Semesta. that the Board of Directors from 2007 to 2015 to Mr. Gunarko Papan was an attempt to discredit Mr. Gunarko Papan's position as a shareholder in the Company.

### **3.5 Case Analysis Decision No. 289/PDT/2018/PT.DKI.**

In this case namely PT. Based on the Decision of the Supreme Court of the Republic of Indonesia, Putera Daya Perkasa has clearly violated the law, namely a director, Mrs. Siaully Papan, among others, violated:

Article 97 and Article 92 of Act No. 40 of 2007.

Whereas as a director he has not carried out his duties properly, he has committed a diversion of duties as a director;

Whereas the defendant as a director did not provide an annual report to shareholders, especially the plaintiff's position as the Main Commissioner in the

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<sup>9</sup>Ukilah Supriyatin, N. H. (2020). *Tanggung Jawab Perdata Perseroan Terbatas (PT) Sebagai Badan Hukum*. Jurnal Ilmiah Galuh. p. 1

<sup>10</sup>Kurniawan. (2014). *Tanggung Jawab Pemegang Saham Perseroan Terbatas Menurut Hukum Positif*. *Journal Universitas Gajah Mada Mimbar Hukum*, p.1



company and also as a shareholder in the company;

That the highest authority in the company is in the hands of the shareholders and every action and situation of the company's shareholders must be notified by the board of directors and taken in a decision of the General Meeting of Shareholders;

That in this decision of the Supreme Court of the Republic of Indonesia I agree in favor of the Plaintiff (Gunarko Papan).

The rules regarding the Board of Directors are all regulated in the Limited Liability Company Act No. 40 of 2007 and are included in the articles of association of a Limited Liability Company every time a company is established.<sup>11</sup>

#### 4. Conclusion

To choose the best form of business entity is a form of business entity that is a legal entity, namely a Limited Liability Company because a Limited Liability Company has the privilege of being protected by law, its liability is limited according to the size of the shares owned and it is more professional in doing business.

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<sup>11</sup>Isfardiyana, S.H. (2015). *TANGGUNG JAWAB ORGAN PERSEROAN TERBATAS DALAM KASUS KEPAILITAN*. Arena Hukum, 7(2), p. 151–171.



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