

THE POWER OF THE PEACE DEED IS DECIDED BY THE JUDGE (VANDADING DEED) IN THE PRESENCE OF A LAWSUIT BY THE THIRD PARTY

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ABSTRACT

A peace agreement is where two parties make a peace to avoid or end a case. This peace agreement can be carried out by the parties either outside the court or in the court. Thus, the parties to the dispute in court can make an effort to peace. The peace procedure in the Court is regulated in the Civil Procedure Code in Indonesia in article 130 HIR / 154 RBG, which explains that the judge is obliged to advise the parties to take the peace procedure first. If the peace fails then the trial will be continued. But if peace by the parties is successful at the hearing, then the peace will be decided by the judge with the verdict of Van Dading Deed. Therefore, the purpose of this study is to find the strength of the peace deed against the existence of a lawsuit from third parties. This type of research is normative juridids with secondary data consisting of primary, secondary and tertiary legal materials. Data is collected by conducting a literature review and then processed qualitatively according to the problem and theoretical framework logically and systematically, so that the objective to be achieved in this research is to find out how the legal force of a peace agreement (Acta Van Dading), so that the agreement can be its implementation is forced. So that the party who initially did not carry out its obligations as agreed, finally did what it was supposed to be and whether the acta van dading can be canceled by filing a lawsuit against the Court where the acta van dading should have been canceled only with a legal suit not in the form resistance. Sedangka resistance can usually only be used for a verstek decision by a panel of judges, that is a court decision by a panel of judges because the Defendant was not present at the hearing even though he was legally and properly summoned.

Key words: Van Dading Deed, Dispute, Legal consequences

INTRODUCTION

Humans live together because they need each other. Humans as social creatures interact with one another to maintain their lives. Because of this, Aristotle referred to humans as zoon politicom, which means humans are destined as social beings predestined to live in society.¹ Not infrequently in the association in society between humans with each other there is a conflict of interest, resulting in friction that led to a dispute between them. Therefore, they try to resolve their disputes by way of peace, but not infrequently the disputing parties choose the dispute resolution through the judiciary after the negotiations between them do not find common ground.

The inclusion of peace procedures in the justice system is based on 130 HIR / 154 Rbg, which explains that the judge is obliged to advise the parties to take the peace procedure first. If peace fails, the trial will continue. But if the peace is successful in producing an agreement, then the peace must be written down and signed by the parties to the dispute. If the parties do not want the agreement to be included in the decision, the plaintiff must withdraw the claim. Judging from Article 130 HIR / 154 Rbg, there is a lack of legal clarity in regulating the legal force of the peace decision.

In Article 1851 of the Civil Code it can be seen that peace has several conditions to be called legal, one of which is the pouring of the results of peace in written form. In Article 6 of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution also called the terms of the agreement made in written form if peace is reached, even there are conditions that require that the peace agreement be registered at the District Court. However, there is still a lot of peace that is not written down and not registered at the District Court. This certainly does not have strong legal force if a problem arises in the future if one party does not keep the promise to implement the contents of peace.

Based on the brief description above, the researcher is interested in discussing it, especially regarding the legal force inherent in the Act of Peace (Acta Van Dading) and has been confirmed by the Court's Decision, but sued by a third party. This third party is supposed to be one of the parties to the agreement, but because they have never attended a summons, the third party is deemed not exercising their rights and the peace agreement does not involve the third party. The signing of the peace agreement (Acta Van Dading) was signed by the parties present and made a District Court Judgment without involving a third party because they did not use their rights. The object of this research is the case that occurred in the handling of Case No. 465 / Pdt.G / 2018 // East Jakarta District Court in the East Jakarta Court. Which case in the case the third party filed a lawsuit against the Decision on Case Number: 148 / Pdt.G / 2017 // East Jakarta District Court on 5 September 2017 which has permanent legal force.

With the existence of a lawsuit against the Deed of Peace (Acta Van Dading) as a brief description above, the problem in this researcher is how strong the legal force of a peace agreement (Acta Van Dading), so that the agreement can be enforced. Therefore, the party who initially did not carry out its obligations in accordance with what was agreed upon, finally carried out what was supposed to be its obligation and whether the acta van dading could be canceled by filing a lawsuit against the Court.

¹ Suroso Wignjodipuro, *Himpunan Kuliah Pengantar Ilmu Hukum*, (Bandung, Alumni, 1971), h 1.

RESEARCH METHODS

The data or methods used in this study are as follows:

1. Type of Research

A scientific method can be trusted if it is prepared using an appropriate method. The method is a way of working or working procedures to be able to understand the object of being the target of relevant science. Methods are guidelines, the way a scientist learns and understands the environments that they face. In this study using the following methods:

a. The method used is a juridical normative juridical approach, is a normative legal approach with the addition of empirical elements, namely the implementation of normative legal provisions (Laws) in its action on certain legal events that occur in a society. In this type of research method there are three categories namely:

1) *Non Judicial Case Study*

It is a case study approach that is without conflict so there is no interference with the court

2) *Judicial Case Study*

It is a legal case study approach due to conflict so that it involves the intervention of the court to provide a settlement decision (jurisprudence)

3) *Live Case Study*

Is an approach to a legal event that the process is still ongoing or not over.²

2. Problem Approach

The approach to the problem used in this litigation is the statute approach by reviewing all relevant laws,³ relating to the legal force of the Peace Agreement (Acta Van Dading) as the final decision of the District Court.

3. Data Sources

Source of data used in this study is secondary data. According to its binding strength, secondary data can be classified into three groups, namely:

a. Primary Legal Material Sources, namely materials that discuss or explain the source of primary legal material that has binding power, including:

1) The 1945 Constitution of the Republic of Indonesia

2) Civil Code (Civil Code)

3) HIR

4) Rbg

5) PERMA No. 1 of 2008 as revised to PERMA No. 1 of 2016

b. Secondary Legal Material Sources, is data that supports primary data sources, namely information or facts obtained directly from the field such as observation, interviews and literature review.

c. Tertiary Legal Material Sources, namely supporting materials that explain and provide information on primary legal materials and secondary legal materials in the form of legal dictionaries and internet media.

4. Data Analysis Techniques

Are steps related to the processing of legal materials that have been collected to answer the problem formulation, which is done by means of qualitative analysis. Meanwhile, to analyze the legal material, descriptive analysis writing techniques are used, which explains in detail and systematically the problem solving.

DISCUSSION

1. The Legal Strength of the Peace Agreement (Acta Van Dading) in its Implementation.

Civil Procedure Law has a function as the implementation of material civil law, in the sense of maintaining the enactment of the said civil law. The civil procedural law also stipulates that the parties should settle disputes in the event of a dispute regarding the fulfillment of their rights, which is either a peaceful settlement or a court settlement. Everyone will obey or obey the rules of law that have been set but in conducting legal relations may arise a condition that one party does not fulfill obligations to other parties, so that the other party feels impaired their rights. Can occur without a reason someone's rights are harmed due to the actions of others. To defend their rights and fulfill obligations as regulated, every person must not act as he pleases (vigilante) but must be based on the law in question can not carry out his own demands peacefully, then can ask the judge's help to help resolve it.

To get something they want, it is not uncommon for the parties to negotiate and bargain known as negotiations, as regulated in Article 1851 of the Civil Code which reads:

"Peace is an agreement with which both parties, by surrendering, promising or holding an item, terminate a developing case or prevent a case from arising. This agreement is not valid, but if it is made in writing".

A peace agreement is essentially one of the tools or means that can help the process of resolving a dispute become faster and cheaper. So that it can provide access to the parties to the dispute to obtain justice or a satisfactory resolution of the dispute

² Idtesis.com, *Metode Penelitian Hukum Empiris dan Normatif*, <https://idtesis.com/metode-penelitian-hukum-empiris-dan-normatif/>, diakses tanggal 12-09-2019, pukul 19.47 wib.

³ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta, Kencana, 2008), hlm 29

being faced. There are several reasons why the peace agreement that the parties want as a settlement, as desired by the parties in the settlement of Case Number: 148 / Pdt.G / 2017 // East Jakarta District Court in the East Jakarta Court, including:

- a. Economic factors, where the peace agreement has the potential as a means to resolve disputes that are more economical, both in terms of cost and time.
- b. The scope of factors discussed, the peace agreement essentially has the ability to discuss the agenda of the problem more broadly, and flexibly.
- c. The factor of fostering good relations, where the peace agreement that prioritizes cooperative ways of resolution is very much in accordance with what the parties want is to prioritize the importance of good relations between those who still have family relations, both for now and in the future.

As for sitting down the problems that caused a dispute between the parties, so one of the parties filed a lawsuit through the East Jakarta District Court, in summary it is as follows:

- a. Whereas based on the Deed of Grant No. 112 / III / Cakung / 1987 made before a notary public, HW gave a piece of land that was recorded in the SHM to his biological brother RS in 1986.
- b. Whereas with the granting of a piece of land recorded in SHM from the HW to the Hospital, the HW or its heirs cannot withdraw it. This is in accordance with the provisions of Article 1666 of the Civil Code which states that:
"Gifting is an agreement by which a donor gives away an item for free, without being able to withdraw it, for the benefit of someone who receives the delivery of the item. The law only recognizes gifts between living people."
- c. Whereas initially the plot of land was purchased (in cash) by HW from RR. Where initially the land was planned to be built by the POM of gasoline by the HW, but due to constrained permits that could not be issued, the HW decided to give ownership rights to the land to his biological brother, the RS.
- d. Whereas at that time the RS family had a company that was founded in 1982, under the orders of the HW the family owned company of the hospital was moved and had permanent operations on the grant land.
- e. Whereas at that time, even though HW had given full ownership rights to the land referred to his brother RS, HW administratively decided to name the administration of the land document recorded in the SHM in the name of the WS, but the related physical documents were given entirely to the hospital. The documents include the original Power of Attorney from the old owner to HW, the original Grant Deed from HW to the Hospital, and includes the original blank blank that has been signed by the WS, if one day the land is about to be reversed by the RS.
- f. Whereas in early 1997 according to the advice and approval of the HW, the WS took care of the process behind the name of the SHM on the basis of the 1987 Deed of Grant, so that the SHM was published on behalf of the WS which was entirely funded by the RS. Furthermore, all the original and main physical documents supporting the original (Power of Attorney, original deed of Grant, original SHM on behalf of WS), were given back to the hospital including the original receipt for the handling of the certificate name.
- g. That in the same year, 1997, there was a monetary crisis that caused chaos and insecurity in Jakarta. With consideration of security reasons, WS suggested to the RSM that SHM be included in the Safety Box of the Bank which can be accessed by WS and HS. The original SHM and the original blank blank are then submitted by the RS to the WS for inclusion in the Safety Box of the Bank. But after all these years, it turns out that the original SHM was not returned to the hospital, and even used for personal gain by ordering the land to be emptied without compensation if the WS sold it to a third party. This is known to the Hospital through the Peace Deed on Calculation and Order (Acquit et Decharge) Separation of Togetherness in Business, which was made without the knowledge and permission of the Hospital.
- h. Whereas due to legal problems, the WS has sent several summons and proceeded with filing a lawsuit to the Hospital through the East Jakarta District Court.
- i. Whereas as stipulated in PERMA No. 1 of 2008 as revised to PERMA No. 1 of 2016 concerning Mediation Procedures in the Court, the Majellis Judge of the East Jakarta District Court who examined the case, advised the parties to settle the mediation first.
- j. Whereas in the mediation settlement effort, in the end the legal problems could be resolved through a family meeting through a Peace Agreement signed on August 29, 2017 which was then set forth in the Decision of the Panel of Judges of the East Jakarta District Court No: 148 / Pdt.G / PN. Jkt.Tim dated 05 September 2017.

Discussing the legal force of the Deed of Peace (Acta Van Dading), as stipulated in Article 1851 of the Civil Code reads:

"Peace is an agreement with which both parties, by surrendering, promising or holding an item, terminate a developing case or prevent a case from arising. This agreement is not valid, but if it is made in writing". The aforementioned article on one of the points explains that in a peace must be made in writing or stated in a peace deed, because what will be discussed is the result of non-litigation peace, so that in making the peace deed is inseparable from the law of agreement made by the parties party. As stated in Book III of the Civil Code, which states that an agreement is an event where a person promises to another person or where two people promise to do something. From this incident arose a legal relationship between two people called the engagement.

The engagement itself is a legal relationship (regarding property wealth) between two people, which gives the right to one to claim something and the other, while the other person is required to fulfill the demand.⁴

The elements that must be included in the peace agreement are:

1. An agreement between the two parties;
2. The contents of the agreement constitute an agreement to do something;

⁴ Subekti, *Pokok-Pokok Hukum Perdata*, cet 15, (Jakarta, PT. Intermedia, 1980) hlm 123

3. Both parties agree to end the dispute;
4. The dispute is being resolved or to prevent a case or dispute from arising.

The contents of the peace agreement in case No: 148 / Pdt.G / East Jakarta District Court that was made and signed by the parties is a legal bond made and agreed upon by the parties, for that the parties must obey and implement it properly and correctly . As regulated in Article 1338 paragraph (1) of the Civil Code which states that:"All legally binding agreements are legal to those who make them."

According to Article 1338 paragraph (1) above contains a statement that the public may make agreements in the form and contains any of the agreements that bind the parties that make it like a law. Agreement law also applies the principle of consensus (derived from the Latin consensus which means to agree). Thus, an agreement can be said to be valid if it has agreed on basic matters and no formality is needed .⁵

As is known in terms of the validity of an agreement, it is regulated in Article 1320 of the Civil Code, including but not limited to:

- a. Agree those who bind themselves
- b. Talk about making an agreement
- c. Regarding a certain thing
- d. A lawful cause

Dispute resolution through peace as the settlement in case No: 148 / Pdt.G / East Jakarta District Court contains various advantages, namely:

- a. Settlement is informal;
- b. Which resolves the disputes of the parties themselves;
- c. Short completion period;
- d. Low cost;
- e. Proof rules are not necessary;
- f. The settlement process is confidential;
- g. The relations between the parties are cooperative ";
- h. Communication and focus of completion;
- i. The intended outcome is the same as winning;
- j. Free of emotion and revenge".⁶

Deed contains the meaning of an article deliberately made to prove a certain legal event or relationship.⁷ While the definition of authentic deed lies in the book of proof (bewijsrecht) which is included and regulated in Book IV, Article 1868 of the Civil Code, which determines that⁸ :

"An authentic act is an act made and promulgated in a legal form, by or before public office, authorized to do so, wherever it is made". In Indonesia in making an authentic deed a person must have a position as a "Public Official". Without a position as a public official, one cannot make an authentic deed, because the strength of an authentic deed as a means of proof, as stated in Article 1870 of the Civil Code namely: "An authentic act gives the parties and their heirs or beneficiaries a clear indication of what is contained therein."

The provisions of Article 1870 of the Civil Code above, it can be concluded that the authentic deed has absolute proof power, if the deed contains agreements that bind the parties making the agreement. So if it is related to the peace deed which is the final verdict of case Number: 148 / Pdt.G / PN.Jkt.Tim, there are those who deny the truth of the contents of the deed, the party who denies must prove it, because what is contained in the authentic deed that is perfect proof. Thus, it does not need to be proven with other evidentiary tools. Herein lies the significance of authentic deeds, which in daily law practice make it easier to prove and provide stronger legal certainty in people's lives.

"If there are two or more people, and one of the other provides information to each other to be stated in the deed for the actions of the parties (disputing with each other) in terms of the strength of authentic material deed evidencing the following legal consequences:

- a. The statement or statement as long as it is mutually compatible, gives birth to a binding agreement with them;
- b. The deed is proof of the agreement as explained in the deed.⁹

In an authentic deed it is clearly determined about the rights and obligations of each of the parties, to avoid disputes in the future, and although in the future a dispute arises that cannot be avoided, in the process of settlement, at least the authentic deed constitutes written and fulfilled book tools make a real contribution to the settlement of cases cheaply and quickly.

The peace deed made in accordance with Article 130 paragraph (3) of HIR, then the decision of the peace deed cannot be compared, in other words the ruling shall be closed with appeal and appeal. This was also confirmed in the Supreme Court Decree No. 1038 K / Sip / 1973 that an appeal against a peace decision would not be possible. It was further explained that the

⁵ Subekti, *Hukum Perjanjian*, cet 12, (Jakarta, PT. Intermedia, 1990), hlm 15

⁶ M. Yahya Harahap, *Hukum Acara Perdata*, cet 8 (Jakarta, Sinar Grafika) hlm236 – 238.

⁷ Setiawan, *Aneka Masalah Hukum dan Hukum Acara Perdata*, (Bandung, Alumni, 1992), hlm 403

⁸ Sugondro Notodisoerjo, *Hukum Notariat di Indonesia Suatu Penjelasan*, (Jakarta, PT. Raja Grafindo Persada, 1993), hlm 42.

⁹ M. Yahya Harahap, *Op Cit*, hlm 569

peace deed which was an authentic deed was a deed made by or in front of an authorized official, had the strength of perfect proof by itself and if it was denied its authenticity, the party who denied it had to prove its falsity.¹⁰

2. The Legal Strength of the Peace Agreement (Acta Van Dading) for Resistance Claims from Third Parties That Feel Harmed.

From the provisions of Article 1870 of the Civil Code, it can be concluded that the authentic deed has absolute proof power, if the deed contains agreements that bind the parties making the agreement. So if it is related to the peace deed which is the final verdict of case Number: 148 / Pdt.G / PN.Jkt.Tim, if there is a party who denies the truth of the contents of the deed, the party who denies must prove it, because it is contained in the deed That authentic is perfect proof. So it does not need to be proven with other evidentiary tools.

As happened in the Deed of Peace and was strengthened into a Decision by the Panel of Judges in Case Number: 148 / Pdt.G / PN.Jkt.Tim, where after a period of time there was a third party, who was the heir of the HW, filed a claim for resistance, because it did not can accept the results of the court case Decree Number: 148 / Pdt.G / 2017 / PN.Jkt.Tim and feel not involved in the mediation negotiations and the signing of the Peace Deed of the mediation results.

The concise description of the problem in the case above, so that the heir HW filed a lawsuit against the Decision Case Case Number: 148 / Pdt.G / 2017 / PN.Jkt.Tim through the East Jakarta District Court with No. Case: 465 / Pdt.G / 2018 / PN.Jkt.Tim are as follows:

One of the heirs of HW stated that the Deed of Peace dated August 29, 2017 was confirmed in Decision No. 148 / Pdt.G / 2017 / PN.Jkt.Tim on 5 September 2017 as a form of Unlawful Acts on the grounds that they did not involve themselves in peace negotiations and deprived them of their rights. Which case is based on legal facts and available evidence, the heirs of HW no longer have the right to the distribution of SHM land that has been given by HW to the hospital So that there is no need to be included in the Peace Deed negotiations dated August 29, 2017 which have been strengthened into Decisions by the Panel of Judges in Case Number: 148 / Pdt.G / PN.Jkt.Tim. But even so, when the Aquo case was resolved the East Jakarta District Court had sent four summonses, but one of the heirs of HW had never had a good intention to fulfill the summons. Whereas with no attendance at the hearing, despite being properly summoned by the East Jakarta District Court 4 times, the Panel of Judges immediately proceeded with the agenda of the session, namely mediation without waiting for attendance.

In the mediation resulted in an agreement between the parties present without involving it, then it was outlined in the Deed of Peace (Acta Van Dading) dated 29 August 2017 which was confirmed in Decision No. 148 / Pdt.G / 2017 / East Jakarta District Court on 5 September 2017. But after the passage of time the HW heirs made another legal remedy by filing a resistance suit through the East Jakarta District Court with Case Number 465 / Pdt.G / 2018 / PN.Jkt.Tim, where in the lawsuit stated the Peace Deed dated 29 August 2017 which was confirmed in Decision No. 148 / Pdt.G / 2017 / PN.Jkt.Tim on 5 September 2017 as a form of Unlawful Acts on the grounds that they did not involve themselves in peace negotiations and deprived them of their rights.

The signing of the peace agreement (Acta Van Dading) was signed by the parties present and made a decision by the District Court without involving one of the heirs of HW because they had never fulfilled a court summons, so he was deemed not exercising his rights so it was decided by Verstek. And the Decision can be declared as having permanent legal force (inkracht), after there is no legal remedy Verzet.

Discussing the Verstek's decision, even though the Judge has the authority to impose the Verstek's decision at the first trial. However, a wise Judge will provide an opportunity for the Defendant to be present at the hearing by delaying the hearing. For this reason, at the first hearing the judge ordered the trial to be postponed and ordered the bailiff to summon the Defendant several times. Although the Law does not set limits on the number of times a repeat call is made, but what generally happens in a trial, a proper summons is made a maximum of 3 times.

Related to the Peace Agreement (Acta Van Dading), basically the agreement is the most important source that gave birth to the agreement, as stipulated in Article 1233 of the Civil Code, which states as follows: "Every engagement is born good because of agreement, good because of the law."

An alliance arising out of an agreement is required by the parties to the agreement, whereby the rights and obligations of the parties need to be established. These rights and obligations are a performance, one is obligated to accomplish and the other is entitled to achievement. While the alliance is born out of the law beyond the will of the parties concerned.

"The agreement issues an agreement between the parties that made it. In its form, the agreement is in the form of a series of words containing promises or abilities set forth in a written agreement. An agreement is a legal relationship that is property between two or more people, on the basis of which one party is entitled to an achievement, and the other party is obliged to that achievement. From this definition it can be concluded that in an agreement there are at least one right and obligation. An agreement can cause one or several agreements, depending on the type of agreement ".¹¹

¹⁰ Mochamad Djais dan RMJ. Koesmargono, *Membaca dan Mengerti HIR*, (Semarang, Badan Penerbit, Universitas Diponegoro, 2008) hlm 155.

¹¹ R. Setiawan, *Pokok-Pokok Hukum Perikatan*, (Bandung, Bina Cipta, 1978), hlm

The peace act made by the parties to resolve the dispute and is enforced by Decree No. 148 / Rev.G / 2017 / East Jakarta District Court on September 5, 2017 by the Magistrate of the District Court of East Jakarta and has been in full force of law. In the event that the subjective conditions or concerns of the person making the agreement are not met, the agreement may be called for cancellation, the party entitled to request the cancellation is either the uninitiated or the non-consenting party. So the agreement made is binding as long as it is not canceled by the judge at the request of the party entitled to request the revocation. Whereas if the objective conditions are not met, the agreement becomes void by law, meaning that it has been assumed that the agreement never existed.

In the peace of the parties they release some of their demands, in order to end a matter. A peace agreement is a "formal" agreement, since it is not a legal agreement (and therefore not binding) unless it is held in a particular formality, which must be in writing. In practice a peace treaty is an act, since the agreement was intentionally entered into by the parties concerned as a means of proof for the purpose of resolving the dispute. According to the Article 1858 of the Civil Code it is stated that: "Among the parties concerned, a peace has the power of a judge's decision at the final stage. That peace cannot be disputed on the grounds that there was a mistake about the law or on the grounds that one of the parties was harmed. "

This is also confirmed in the last sentence of Article 130 paragraph (2) of the HIR which states that the decision of the peace certificate has the same power as the decision that has permanent legal force. "In general, a new decision has permanent legal force, if an appeal and appeal has been taken. But with regard to the ruling of the peace certificate, the law itself attaches that power directly to it. As soon as the verdict is pronounced, it is inherently directly inherent in the force of law. So that peace has the same legal force as the decision of a judge who has permanent legal force ".¹²

In the peace certificate there are two terms namely *acta van dading* and *acta van vergelijk*. The judges are more likely to use the term *acta van dading* for a peace deed made by the parties without or has not received confirmation from the judge. Whereas *acta van vergelijk* is a deed that has obtained confirmation from the judge. Deed of peace with the approval of the judge (*acta van vergelijk*), as regulated in Article 130 of the HIR which states that: "If on the appointed day both parties come, the district court with the help of the chairman tries to reconcile them."

The peace deed based on the decision of the Panel of Judges in court already has an executive power. So if one party does not obey or does not carry out the contents contained in the peace agreement deed voluntarily, then execution may be requested from the district court. Next the Chair of the District Court will order the execution. The verdict cannot be appealed or appealed.

Referring to Article 1851 of the Civil Code, the peace agreement entered into between the parties must be made in written form, so that it can be concluded that the written form of the peace agreement intended by the law is an authentic written form, that is, that is made before an authorized official.

Basically the substance of peace can be done freely by the parties, but the law has set various peace that cannot be done by the parties. As for the peace agreements that are not allowed, among others are:

- a. Peace regarding the occurrence of a mistake regarding the person concerned or the subject matter;
- b. Peace that has been carried out by means of fraud or coercion;
- c. Peace regarding a mistake sits in the case of a void of rights, except when the parties have made peace about the invalidation with a firm statement;
- d. Peace is carried out on the basis of letters which are later declared to be false
- e. Peace concerning a dispute that has ended with a decision of a judge who has obtained a definite legal force, but is not known by the parties or one of the parties. However, if the unknown decision is still appealed, then the peace regarding the dispute concerned is valid;
- f. Peace is only a matter of affairs, whereas from the letters found later it turns out that one of the parties is not entitled to that right.

If the sixth thing is done, then the peace can be requested for cancellation to the court .¹³

The peace agreement made by the parties has the same binding power as the judge's decision at the final stage, both the cassation decision and the review. This peace agreement cannot be canceled on the grounds that there is an error regarding the law or on the grounds that one of the parties is disadvantaged. As regulated in PERMA No. 1 of 2008 which states that the Peace Deed is a deed containing the contents of the peace agreement and the judge's decision that reinforces the peace agreement that is not subject to ordinary or extraordinary legal efforts.

As happened in the lawsuit of resistance by HW's heirs to the Deed of Peace (*Acta Van Dading*) which has been confirmed in Decision No. 148 / Pdt.G / 2017 / East Jakarta District Court by the East Jakarta District Court. If viewed from the perspective of treaty law, according to the Civil Code, a peace agreement can be canceled if:

- a. According to Article 1859 Civil Code: "However, a peace can be canceled, if there has been an error about the person, or on the subject matter"

If reviewed from article 1859 of the Civil Code, the resistance lawsuit by the KV should be defeated by the East Jakarta District Court Judge Council, because the parties to the peace agreement are indeed those who have legal relations in the dispute in case No. 148 / Pdt.G / 2017 / PN.Jkt.Tim, and the subject matter is also clear as stated in the lawsuit in case No. 148 / Pdt.G / 2017 /

¹² M.Yahya Harahap, *Log Cit*, hlm279 - 280

¹³ Salim, *Hukum Kontrak Teori dan Teknik Penyusunan Kontrak*, cet 3 (Jakarta, Sinar Grafika, 2006), hlm 94.

PN.Jkt.Tim. Thus the Deed of Peace Agreement (Acta Van Dading) and confirmed in Decision No. 148 / Pdt.G / 2017 / East Jakarta District Court in terms of Article 1859 cannot be canceled.

b. According to Article 1860 of the Civil Code:

"Likewise, it can ask for the cancellation of a peace, if the peace has been held because of a misunderstanding about sitting down on its case, about a void of rights, except if the parties with a firm statement make peace about the cancellation"

If it is reviewed from article 1860 of the Civil Code, the resistance lawsuit by the KV should be defeated by the East Jakarta District Court Judge Council, because the parties to the peace agreement had no intention to request the cancellation of the Deed of Peace Agreement (Acta Van Dading) which they agreed. As for the KV that made an effort to resist requesting the cancellation is not one of the parties (outside parties), so it has absolutely no right to request the cancellation of the peace agreement (Acta Van Dading) and has been confirmed in Case Decision Number: 148 / Pdt.G / 2017 / PN.Jkt.Tim. Therefore, if reviewed from Article 1859 of the Deed of Peace Agreement (Acta Van Dading) and has been confirmed in Case Decision Number: 148 / Pdt.G / 2017 // East Jakarta District Court cannot be canceled.

c. According to Article 1862 of the Civil Code:

"A peace regarding a dispute, which has ended with a decision of a judge who has obtained absolute power, but is not known by the parties or one of them, is null and void.

If decisions that are unknown to the parties can still be appealed, then peace is legal.

If reviewed from article 1862 of the Civil Code, the resistance lawsuit by the KV should be defeated by the East Jakarta District Court Judge Council, because of the Deed of Peace Agreement (Acta Van Dading) and has been confirmed in Case Decision Number: 148 / Pdt.G / 2017 / PN The Team is an agreement from the parties. As for KV who feel not invited to negotiate or feel not involved in the peace agreement, because basically KV has no legal connection in the case and is not one of the parties who agreed to and signed the Deed of Peace Agreement (Acta Van Dading) and has been confirmed in Decision on case Number: 148 / Pdt.G / 2017 / PN.Jkt.Tim, so there is no right for him to request the cancellation of the Deed of Peace Agreement (Acta Van Dading).

d. According to Article 1863 of the Civil Code:

"If the parties have generally made peace about all matters that apply between them, then the existence of letters which at that time were unknown, but were later found not to be a reason to cancel the peace unless the letters had been deliberately hidden by one of the parties.

But that peace is invalidated, if peace is only about one matter, whereas from the letters found then it turns out that one of the parties has absolutely no right to that.

If reviewed from article 1863 of the Civil Code, the resistance lawsuit that was carried out should be defeated by the East Jakarta District Court Judge Council, due to the Deed of Peace Agreement (Acta Van Dading) and has been confirmed in Case Decision Number: 148 / Pdt.G / 2017 / PN. Jkt.Tim is a clear matter that the HW grants a plot of land to the hospital, where the evidence of SHM ownership of the land has been given to the hospital on behalf of WS (the parties to the Peace Deed) and on the advice of HW behind the name on the hospital. In this case as a child (heir) of HW who conducts a lawsuit for resistance, it is very baseless to ask for the cancellation of the Deed of Deed of Peace Agreement (Acta Van Dading) and has been confirmed in the Case Decision Number: 148 / Pdt.G / 2017 / East Jakarta District Court, because he is not a party to the Deed of Peace Agreement (Acta Van Dading).

Whereas if the discussion regarding the lawsuit of resistance is carried out by the heirs of HW against the Deed of Peace (Acta Van Dading) and has been confirmed in Decision No. 148 / Pdt.G / 2017 / PN.Jkt.Tim in terms of the Decision of the Supreme Court of the Republic of Indonesia, there are several decisions regarding peace that become the Supreme Court Jurisprudence among others as follows:

a. Decision MA No. 454K / Pdt / 1991 which formulates norms, the deed of peace can be canceled if the contents contradict with the law. In that case, the peace certificate violated the divorce provisions in Government Regulation No. 9 of 1975.

b. MA Decision No. 792 K / Pdt / 2002 dated January 3, 2003, the peace agreement agreed by both parties, without coercion and the parties are capable of making the agreement, even though one party is in detention status, the agreement is valid.

Based on the description and reviewed from several legal provisions above, it can be concluded that the Peace Deed (Acta Van Dading) which has been confirmed in Decision No. 148 / Pdt.G / 2017 // East Jakarta District Court has permanent legal force (inkracht). Therefore the peace agreement (Acta Van Dading) has a strong legal force, and the agreement can be enforced. So that the party who initially did not carry out its obligations in accordance with what was agreed upon, finally carried out what was supposed to be its obligation.

CONCLUSION

All agreements made legally apply as a law for those who make it based on Article 1338 paragraph (1) of the Civil Code. The Deed of Peace (Acta Van Dading) which has been signed by the parties to the dispute and has been strengthened by a court decision by the Panel of Judges, then the decision cannot be submitted to a higher court or submit to the level of appeal and cassation. Therefore, in other words, the appeal and appeal of the legal basis are covered by the appeal of Article 130 Paragraph (3) HIR & Jurisprudence of the Supreme Court's Decision Number 1038 K / Sip / 1973 that it is impossible to submit an appeal and appeal appeal. Thus, the peace agreement (Acta Van Dading) has a strong legal force, and the agreement has been enforced by the parties. Pursuant to Article 1338 of the Civil Code it is also regulated that the peace agreement (Acta Van dading) applies as a law to the parties who made it. Thus, only the parties who signed my agreement can cancel the peace agreement in accordance with Article 1860 of the Civil Code and third parties are not entitled to request cancellation. The Peace Deed (Acta Van Dading) is an authentic deed which is a deed drawn up by or in the presence of an authorized official, so that it has perfect

proof of strength. Thus, against claims of resistance from third parties against the Peace Agreement (Acta Van Dading) who feel disadvantaged, the party must be able to prove the basis for the cancellation and prove the loss suffered. Cancellation of acta van dading by a third party who feels aggrieved by the certificate can only file a lawsuit not in the form of resistance to the District Court.

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