

## ABSTRACT

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Title : Juridical Analysis on the Application of Civil Lawsuit on Tort in the Settlement of Internal Dispute of Golkar Political Party (A Study on Case Number 91/Pdt.G/2015/PN.Jkt.Utr)

The state of law divides the government powers into three branches of government, namely the executive, the legislature and the judiciary. Indonesia as one of the law-based countries also divides its power into those three branches of government. Most of the political offices in the executive and the legislature are obtained through political parties based on legislative and presidential elections at the national level, and local elections (Pilkada) at the provincial and district/city level. In this context, the function of political parties becomes very important in the process of democracy and leadership regeneration. Thus, it often creates friction caused by different views and interests among political party members that can lead to internal disputes in political parties. Therefore, Law Number 2 of 2011 on Amendment to Law Number 2 of 2008 on Political Parties has regulated guidelines of a settlement mechanism if there is a dispute within the internal political party. In contrast to the previous Law, the new Law has set a mechanism of internal settlement through *Mahkamah Partai*, an internal Court of Political Parties, in advance. If there is no decision taken by the Court or one of the parties does not accept the decision, they can lodge a petition to a local district court. As happened to the Golkar Party in 2014, there were two different National Congresses (Munas) claiming each other as a valid National Congress of the Golkar Party. The first Congress was held by Aburizal Bakrie and his supporters in Nusa Dua, Bali on 30 November to 4 December 2014, while the second Congress was held by Agung Laksono and his supporters in Ancol, Jakarta on 6 to 8 December 2014 on the basis of disbelief against the incumbent Chairman of the Golkar Party, Aburizal Bakrie, due to his failure in the 2014 presidential election process. The Golkar Party failed to nominate Aburizal Bakrie or one of Golkar's cadres as Presidential candidate or Vice-Presidential candidate. The Golkar Party could only be a supporting party for other candidates in the presidential election. The settlement of internal disputes of Golkar Party was then carried out through several petitions to the district courts, namely the Central Jakarta District Court, the West Jakarta District Court and the North Jakarta District Court. The most interesting case that becomes the main research problems in this thesis is a petition lodged by Aburizal Bakrie through his legal counsel, Yusril Ihza Mahendra, against Agung Laksono in the North Jakarta District Court based on a tort case, not a case of internal dispute of political party. Therefore, this thesis aims: (1) to analyze the legal provisions and legal basis comprehensively related to the lawsuit on internal dispute of political parties in general courts and to get clarity of reasons and considerations both from the petitioners and the district court who registered a case of internal disputes of political parties in a tort case number 91/Pdt.G/2015/PN.Jkt.Utr; and (2) to analyze the validity of legal status of Supreme Court Cassation's Decision Number 96K/Pdt/2016 on the Golkar Party Dispute based on a tort case. The research methodology used in this thesis is the normative empirical research where the nature and technique of the research are normative with the discussion that examines empirical data in the form of case

decision compared with the law, rules, principles of law and doctrine from various scholars. This research found that: (1) A tort case for the settlement of internal dispute of political parties registered with the case number 91/Pdt.G/2015/ PN.Jkt.Utr is not in accordance with the legal provisions of the Political Party Law that is *lex specialis derogat legi generalis*. Therefore, the provisions in the Civil Code shall be set aside; and (2) The position of the Supreme Court's Decision Number 96K/Pdt/2016 is also contrary to the law because the ruling is based on a false and unlawful process. However, the decision remains binding until the Court declares a new decision that overrides the previous decision. Based on the analyses, this thesis suggests that: (1) there is a need to systematically disseminate the Circulation Letters of the Supreme Court (SEMA) Number 4 of 2016 concerning Applicability of Formula of the Result of Plenary Meeting of the 2016 Supreme Court Chamber as Guidelines for Executing the Courts's Tasks that includes an internal disputes of Political Parties as a special civil case with Industrial Relations Disputes (PHI) and Arbitration, to the District Courts throughout Indonesia in order to avoid another mistake in handling an internal dispute of political party in the future; and (2) It is necessary to make corrections to the Supreme Court decision that are still binding by submitting a case review (PK) by law or on the basis of the existence of peace between the disputed parties.

Keywords: Golkar Party, Internal Dispute of Political Party, Tort