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Violation of Good Corporate Governance Principles by The Board of Directors in Corporate Law: A Case Analysis of Pt Asuransi Jiwasraya (Persero)

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ABSTRACT

The case of PT Asuransi Jiwasraya (Persero) represents one of the largest financial scandals in the history of state-owned enterprises in Indonesia, illustrating the weak implementation of Good Corporate Governance (GCG) principles. The Board of Directors, as the governing organ of the company, plays a central role in corporate management and is required to perform its duties in accordance with the principles of transparency, accountability, responsibility, independence, and fairness. This study aims to analyze violations of GCG principles committed by the Board of Directors of PT Asuransi Jiwasraya (Persero) and their legal implications from a corporate law perspective. The research method employed is normative legal research using statutory and case approaches. The findings indicate that the Board of Directors of PT Asuransi Jiwasraya (Persero) committed serious violations of GCG principles through imprudent investment management, abuse of authority, and disregard for the prudential principle, resulting in substantial losses to the state. Therefore, law enforcement against the Board of Directors is essential as a form of protection for shareholder interests and public trust in state-owned enterprises.

Keywords: **Good Corporate Governance, Board of Directors, Corporate Law, Jiwasraya, State-Owned Enterprises**

INTRODUCTION

The increasingly dynamic, complex, and competitive business environment requires companies to be managed professionally, transparently, and responsibly. Economic globalization, technological advancement, and rising public demands for ethical business practices have driven a paradigm shift in corporate governance. Companies are no longer viewed merely as profit-seeking entities, but as legal subjects that bear economic, social, and legal responsibilities toward stakeholders (Siregar & Nasution, 2021). In the context of corporate law, sound and integrity-based management is a fundamental prerequisite to ensure business sustainability and to prevent abuses of authority by corporate organs.

One of the fundamental instruments in realizing sound corporate management is the implementation of Good Corporate Governance (GCG) principles. The GCG principles transparency, accountability, responsibility, independence, and fairness serve as normative guidelines as well as control mechanisms in conducting corporate activities. The application of GCG has been proven to play an important role in improving the quality of managerial decision-making and minimizing the risk of abuse of authority in corporate management (Putri & Ramadhan, 2020).

From a corporate law perspective, GCG is closely linked to the duties of the Board of Directors as a corporate organ responsible for managing and administering the company. Law

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Number 40 of 2007 on Limited Liability Companies stipulates that the Board of Directors must carry out its duties in good faith, with full responsibility, and in accordance with the principle of prudence (duty of care). These obligations constitute part of the fiduciary duty, which requires directors to act loyally and responsibly in the best interests of the company. Violations of these principles may result in legal liability for losses incurred by the company (Hutagalung, 2023).

The urgency of implementing GCG becomes even more significant in the governance of State-Owned Enterprises (SOEs), given that SOEs manage separated state assets and play a strategic role in the national economy. The state has mandated the implementation of good corporate governance within SOEs as an effort to enhance performance, accountability, and public trust. However, various studies indicate that GCG implementation in SOEs still faces challenges, particularly related to weak internal supervision and the dominance of the Board of Directors in strategic decision-making (Siregar & Nasution, 2021).

The case of PT Asuransi Jiwasraya (Persero) serves as a concrete example of the failure to implement GCG principles within an SOE. The insurance policy default scandal, accompanied by state losses amounting to trillions of rupiah, demonstrates corporate management that lacked transparency and accountability. Legal studies reveal that the Board of Directors of PT Asuransi Jiwasraya (Persero) engaged in high-risk investment management without adequate analysis and disregarded the principles of prudence and accountability in decision-making (Prasetyo & Wicaksono, 2022).

Violations of GCG principles in the Jiwasraya case not only resulted in financial losses to the company and the state, but also generated serious legal implications for the Board of Directors as corporate managers. This situation reflects the weak implementation of directors' fiduciary duties and indicates that GCG has not yet been fully understood as a binding legal obligation. Therefore, examining violations of GCG principles by the Board of Directors in the case of PT Asuransi Jiwasraya (Persero) is essential to strengthen the understanding of directors' liability from a corporate law perspective and to promote stronger, integrity-based corporate governance in Indonesia (Wijaya & Kurniawan, 2024)..

METHODS

This study employs normative legal research using a statutory approach and a case approach. The legal materials consist of primary legal sources, including Law Number 40 of 2007 on Limited Liability Companies, Law Number 19 of 2003 on State-Owned Enterprises, and court decisions related to the case of PT Asuransi Jiwasraya (Persero). Secondary legal materials include books, scientific journals, and legal articles relevant to the research topic.

RESULTS AND DISCUSSION

The Definition and Position of Good Corporate Governance in Corporate Law

Good Corporate Governance (GCG) is a corporate governance concept that has developed in response to the increasing complexity of business activities, economic globalization, and the high risk of abuse of authority in corporate management. Conceptually, GCG is understood as a system, structure, and mechanism that regulates and controls the relationships among corporate organs namely the General Meeting of Shareholders (GMS), the

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Board of Directors, and the Board of Commissioners in order to achieve corporate objectives in a transparent, accountable, responsible, and fair manner. The implementation of GCG aims to create a balance of interests among shareholders, management, employees, creditors, the government, and other stakeholders, thereby enabling companies to be managed sustainably and with integrity.

From a corporate law perspective, GCG is no longer regarded merely as a business ethics norm or moral guideline in corporate practice, but has undergone a process of juridification into binding legal obligations. GCG principles have been internalized into various statutory regulations, particularly Law Number 40 of 2007 on Limited Liability Companies. This law positions the Board of Directors as the corporate organ with full authority to manage and administer the company, both internally and externally, subject to the obligation to act in good faith, with full responsibility, and in accordance with the principle of prudence.

In this position, the Board of Directors bears strategic responsibility for ensuring that all corporate policies and actions align with good corporate governance principles. GCG functions as both a legal framework and a control instrument to limit and direct the exercise of directors' authority so that it does not deviate from corporate objectives or harm the interests of shareholders and stakeholders. Accordingly, violations of GCG principles in corporate law may give rise to directors' legal liability, whether civil or criminal, if such violations are proven to cause losses to the company.

Principles of Good Corporate Governance and the Obligations of the Board of Directors

The principles of Good Corporate Governance consist of five main principles: transparency, accountability, responsibility, independence, and fairness. These principles are interrelated and form an inseparable unity in corporate management practice. The principle of transparency requires the Board of Directors to disclose material and relevant information openly, accurately, and in a timely manner to stakeholders. This principle is essential to prevent information manipulation and decision-making that could harm the company. Meanwhile, the principle of accountability demands clarity of functions, authority, and responsibility of the Board of Directors for every policy and decision made in managing the company.

The principle of responsibility relates to the obligation of the Board of Directors to comply with laws and regulations and to conduct business activities responsibly toward society and the state. This principle emphasizes that corporate activities must not contravene the law or public interests. Furthermore, the principle of independence requires the Board of Directors to be free from conflicts of interest and undue influence from particular parties in decision-making, ensuring that policies genuinely reflect the interests of the company. The principle of fairness requires equitable treatment of all stakeholders, including minority shareholders.

Under Indonesian corporate law, these principles are inherent in the obligations of the Board of Directors as stipulated in Articles 92 and 97 of the Limited Liability Company Law. Directors are required to perform their duties in good faith, with full responsibility, and with due care. These obligations represent a manifestation of fiduciary duty, which requires directors to act loyally and professionally in the best interests of the company. Violations of these obligations open the possibility for directors to be held legally accountable.

The Concept of Violations of Good Corporate Governance Principles by the Board of Directors

Violations of Good Corporate Governance principles by the Board of Directors may be understood as any act or omission by directors in managing the company that is inconsistent with the principles of transparency, accountability, responsibility, independence, and fairness. Such violations may take the form of abuse of authority, decision-making that disregards the prudential principle, conflicts of interest, or neglect of internal supervisory mechanisms. In the context of corporate law, violations of GCG do not necessarily require proof of malicious intent (mens rea), but may also arise from negligence by the Board of Directors in fulfilling their legal obligations. If such violations cause losses to the company, directors may be held civilly liable based on the principle of personal liability. In certain circumstances, particularly in SOEs, violations of GCG may also give rise to criminal liability if directors' actions satisfy the elements of criminal offenses resulting in state financial losses.

Violations of Good Corporate Governance Principles in the Case of PT Asuransi Jiwasraya (Persero)

The case of PT Asuransi Jiwasraya (Persero) constitutes a concrete example of violations of GCG principles by the Board of Directors in the management of an SOE. The Board of Directors was proven to have engaged in investment management that failed to comply with the principle of prudence, by placing company funds in high-risk stocks and mutual funds without adequate analysis and without due consideration of the company's financial condition. Such actions reflect violations of the principles of accountability and responsibility, as the Board of Directors failed to account for the investment policies it adopted.

Moreover, the lack of transparency in managing investment funds indicates a violation of the principle of transparency. The Board of Directors did not provide sufficient information regarding risks and the company's financial condition to stakeholders. Furthermore, the existence of relationships and particular interests between directors and parties benefiting from the investment policies demonstrates violations of the principles of independence and fairness. Taken together, these practices indicate the failure of the Board of Directors to fully discharge its fiduciary duties.

Legal Implications for the Board of Directors of PT Asuransi Jiwasraya (Persero)

Violations of Good Corporate Governance (GCG) principles committed by the Board of Directors of PT Asuransi Jiwasraya (Persero) have resulted in serious and multidimensional legal implications, encompassing corporate law, civil law, and criminal law. From a corporate law perspective, directors' liability is explicitly regulated in Article 97 paragraph (3) of Law Number 40 of 2007 on Limited Liability Companies, which provides that each member of the Board of Directors is personally liable for company losses if he or she is at fault or negligent in carrying out management duties. This provision reflects the fiduciary duty principle, which requires directors to act in good faith, with full responsibility, and in accordance with the duty of care.

In the Jiwasraya case, violations of GCG principles manifested through imprudent investment policies, lack of transparency, and neglect of internal supervisory mechanisms.

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These actions not only caused significant financial losses to the company, but also directly affected state finances due to Jiwasraya's status as a State-Owned Enterprise. Accordingly, the resulting legal implications extend beyond civil liability in the form of compensation for company losses, to criminal liability.

Criminal liability of the Board of Directors in the Jiwasraya case is based on the existence of unlawful acts that harmed state finances, as regulated under anti-corruption laws. This demonstrates that violations of GCG principles may evolve into criminal conduct when accompanied by abuse of authority, conflicts of interest, and intent or gross negligence resulting in state losses. Thus, GCG functions not only as a normative guideline, but also as a benchmark for assessing directors' legal fault. Law enforcement against the Board of Directors of PT Asuransi Jiwasraya (Persero) in this case represents a concrete application of the rule of law in corporate governance in Indonesia. The handling of this case also serves as an important precedent in corporate law enforcement, particularly for SOEs, affirming that directors do not enjoy legal immunity in exercising their authority. Every strategic policy adopted must be legally accountable if it is proven to violate GCG principles and statutory provisions.

Furthermore, the legal implications arising from the Jiwasraya case are expected to create a deterrent effect and encourage the strengthening of a culture of legal compliance and good corporate governance within SOEs. Through firm legal accountability of directors, public trust in the management of state-owned companies can be restored, while also serving as an important lesson for other corporate organs to uphold GCG principles as the primary foundation for all corporate decision-making.

CONCLUSION

The Board of Directors of PT Asuransi Jiwasraya (Persero) committed violations of Good Corporate Governance principles through corporate management practices that lacked transparency, accountability, and adherence to the prudential principle. These violations resulted in substantial losses to the company and the state, thereby rendering the Board of Directors subject to legal liability in accordance with prevailing statutory provisions.

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