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Liability Of The Board Of Directors For Severance Payments Using Personal Assets: A Legal Review Under Article 1338 Of The Civil Code And Law No. 40 Of 2007

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Abstrak

Penelitian ini mengkaji pertanggungjawaban hukum seorang direktur yang menggunakan aset pribadinya untuk memenuhi kewajiban pembayaran pesangon perusahaan, khususnya ditinjau dari Pasal 1338 KUH Perdata dan Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. Penelitian ini bertujuan untuk menganalisis keabsahan perjanjian yang melibatkan penggunaan aset pribadi direktur serta untuk menentukan dasar hukum pertanggungjawaban direktur atas pembayaran hak-hak karyawan. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Bahan hukum dianalisis secara deskriptif dan kualitatif melalui penalaran deduktif. Temuan penelitian menunjukkan bahwa perjanjian di mana seorang direktur secara sukarela berjanji menggunakan aset pribadinya untuk menjamin atau memenuhi kewajiban pesangon perusahaan dapat mengikat secara sah selama memenuhi syarat sahnya perjanjian berdasarkan Pasal 1320 KUH Perdata. Pertanggungjawaban pribadi direktur timbul dari hubungan kontraktual yang dibangun secara sukarela, bukan secara otomatis karena jabatannya sebagai organ perusahaan. Penggunaan aset pribadi juga tidak menghapuskan prinsip pemisahan entitas hukum (kekayaan terpisah) antara perusahaan dan direktur. Temuan ini menekankan pentingnya pengaturan kontraktual yang jelas guna memberikan kepastian hukum dalam pemenuhan kewajiban pesangon.

Kata Kunci : Pertanggungjawaban Direktur, Aset Pribadi, Pesangon, Kontrak, Kepastian Hukum

Abstract

This study examines the legal responsibility of a director who uses personal assets to fulfill a company's severance payment obligations, particularly from the perspective of Article 1338 of the Indonesian Civil Code and Law No. 40 of 2007 concerning Limited Liability Companies. This study aims to analyze the validity of an agreement involving the use of a director's personal assets and to determine the legal basis of the director's responsibility for the payment of employee compensation. The research employs a normative juridical method with statutory, conceptual, and case approaches. Legal materials were analyzed descriptively and qualitatively through deductive reasoning. The findings indicate that an agreement in which a director voluntarily undertakes to use personal assets to secure or fulfill the company's severance obligations may be legally binding as long as it satisfies the requirements for a valid agreement under Article 1320 of the Civil Code. The director's personal liability arises from the contractual relationship voluntarily established, rather than automatically from the director's position as a corporate organ. The use of personal assets also does not eliminate the separate legal entity principle between the company and the director. These findings emphasize the importance of clear contractual arrangements in providing legal certainty for the fulfillment of severance obligations.

Keyword : *Director Liability, Personal Assets, Severance Pay, Contract, Legal Certainty*

INTRODUCTION

Termination of employment has legal consequences for both employers and employees, particularly in relation to the fulfillment of employees' financial rights. The termination of an employment relationship may give rise to obligations concerning severance pay and compensation that must be fulfilled in accordance with the applicable legal provisions. The employment relationship itself is based on a legal relationship between workers and employers that establishes rights and obligations for both parties (Subekti, 2002). In practice, however, the fulfillment of employees' rights following termination of employment may encounter difficulties when a company does not immediately have sufficient financial resources to fulfill its obligations.

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One of the legal issues that may arise in such circumstances is the use of a director's personal assets to fulfill or secure the company's obligations toward employees. This situation raises a fundamental question concerning the legal position of the director because a limited liability company possesses a legal personality that is separate from its shareholders, directors, and other individuals involved in the company. The principle of separate legal entity places the company as an independent legal subject with rights and obligations that are legally separate from those of its directors and shareholders (Subekti, 2002). Consequently, the company's obligations cannot automatically be regarded as the personal obligations of its director merely because the director is willing to use personal assets to fulfill those obligations.

The distinction between the company's obligations and the director's personal obligations becomes particularly important when the director voluntarily enters into an agreement with an employee concerning the fulfillment of severance or compensation. In contract law, an agreement constitutes a legal act through which one or more persons bind themselves to one or more other persons to perform a particular obligation (Subekti, 2002). A valid agreement requires the fulfillment of the requirements stipulated in Article 1320 of the Indonesian Civil Code, namely agreement, legal capacity, a certain subject matter, and a lawful cause (Suharnoko, 2012). Once these requirements are fulfilled, the agreement produces binding legal consequences for the parties.

The binding force of such an agreement is further connected with Article 1338 paragraph (1) of the Indonesian Civil Code, which establishes that legally formed agreements bind the parties as law. The principle of freedom of contract allows parties to determine the content of their legal relationship within the limits established by law, public order, and morality (Suharnoko, 2012). Therefore, when a director personally agrees to use personal assets to secure or fulfill a company's obligation to pay severance or compensation, the legal basis of the director's responsibility requires examination based on the agreement that has been formed. The responsibility should not automatically be attributed to the director merely because of his or her position as an organ of the company.

This issue becomes more significant when the agreement concerning the fulfillment of severance obligations is subsequently incorporated into a settlement deed or another legally binding agreement. Such an agreement may establish a new legal relationship between the parties. The obligation arising from this new relationship may therefore differ from the original obligation arising from the employment relationship. The distinction between these legal relationships is important because a failure to perform an obligation contained in a valid agreement may constitute a breach of contract and give rise to contractual legal consequences (Suharnoko, 2012).

The use of a director's personal assets in fulfilling employees' compensation rights has previously been examined by Solihin (2023). The study entitled Perlindungan Hukum Terhadap Hak Kompensasi Pemutusan Hubungan Kerja Menggunakan Aset Direksi (Studi Kasus Akta Perdamaian Nomor 1402/PDT.G/2021/PN.TNG) examined the use of directors' personal assets in fulfilling employees' rights arising from termination of employment. The study concluded that the use of a director's personal assets may provide legal protection for employees when the arrangement is incorporated into a settlement deed that has binding legal force. The focus of that study was primarily on the legal protection of employees and the binding force of the settlement deed (Solihin, 2023).

The previous study demonstrates the importance of examining agreements involving the use of directors' personal assets in fulfilling employee compensation. Nevertheless, a legal gap remains concerning the specific basis of the director's personal responsibility when such assets are used to fulfill the company's severance obligations. The central issue is whether the director's responsibility arises from the director's status as an organ of the limited liability company or from a separate contractual relationship voluntarily established with the employee. The relationship between the principle of separate legal entity, the binding force of an agreement under Article 1338 of the Indonesian Civil Code, and the legal position of the director therefore requires further examination.

This research addresses that gap by specifically analyzing the legal responsibility of a director for severance or compensation payments involving personal assets from the perspective of Article 1338 of the Indonesian Civil Code and Law No. 40 of 2007 concerning Limited Liability Companies. The research does not merely examine the protection of employees or the binding force of a settlement deed, but focuses on the source and legal basis of the director's personal responsibility after voluntarily entering into an agreement concerning the fulfillment of the company's obligations. This distinction is important to establish legal certainty regarding the extent to which a director may be personally bound by an agreement without eliminating the separate legal personality of the limited liability company.

Based on these legal issues, this study aims to analyze the validity and binding force of an agreement involving the use of a director's personal assets to fulfill the company's severance obligations and to examine the legal basis of the director's responsibility arising from such an agreement. The study also examines the legal consequences of the contractual relationship in determining the nature of a dispute arising from non-performance of the agreed obligation. Through this analysis, the research is expected to contribute to the development of legal certainty concerning the relationship between directors, limited liability companies, and employees when personal assets are voluntarily used to fulfill employment-related obligations.

Separate Legal Entity and the Legal Position of Directors

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The concept of a separate legal entity is a fundamental principle in corporate law that distinguishes a limited liability company from its shareholders, directors, and other individuals involved in the company. A limited liability company possesses an independent legal personality, meaning that the company has its own rights, obligations, and assets that are legally separate from the personal assets of its directors and shareholders. This separation establishes the company as an independent legal subject capable of entering into legal relationships and bearing responsibility for obligations arising from its activities (Subekti, 2002).

The principle of separate legal entity also establishes a separation between corporate assets and the personal assets of directors. Consequently, obligations arising from the company's legal activities are generally imposed upon the company as the relevant legal entity rather than automatically becoming the personal obligations of its directors. The separation of assets provides legal protection for directors because their personal assets cannot automatically be treated as corporate assets merely because they occupy a position within the company. This principle is also reflected in Law No. 40 of 2007 concerning Limited Liability Companies, which recognizes the company as a legal entity possessing its own assets and bearing responsibility for obligations undertaken in its own name.

Nevertheless, the use of personal assets by a director to fulfill a company's obligation requires a distinction between liability arising from the director's corporate position and liability arising from an independent legal relationship. The use of personal assets does not, by itself, eliminate the separate legal personality of the company. Where a director voluntarily undertakes a personal obligation through an agreement, the source of such obligation may arise from the agreement itself rather than automatically from the director's status as a corporate organ. This distinction is important in determining whether the director's personal liability is based on corporate law or on a contractual relationship independently created by the parties. The thesis applies the separate legal entity concept precisely to examine whether the use of a director's personal assets in fulfilling compensation obligations is consistent with the principle of separation of corporate and personal assets.

Contractual Liability and the Binding Force of Article 1338 of the Civil Code

A contract constitutes an important source of legal relationships because it creates rights and obligations between the parties. Subekti explains that an agreement is a legal event in which one person promises to perform an act for another person or in which two persons mutually promise to perform something. Accordingly, a contractual relationship may establish obligations that are separate from obligations arising from a person's status or position under another legal relationship (Subekti, 2002).

The validity of a contract is determined by the fulfillment of the requirements stipulated in Article 1320 of the Indonesian Civil Code. These requirements consist of the parties' agreement, legal capacity, a specific subject matter, and a lawful cause. Once these requirements are fulfilled, the agreement is legally valid and binding upon the parties who entered into it (Suharnoko, 2012). Therefore, a contractual undertaking by a director to use personal assets for the fulfillment of a company's compensation or severance obligation must be assessed based on the validity of the agreement and the legal relationship created by it.

The principle of freedom of contract is closely related to the binding force of an agreement. Article 1338 paragraph (1) of the Civil Code provides that legally valid agreements bind the parties as law. This principle allows parties to determine the contents, form, and terms of their agreement within the limits permitted by law. In this context, the willingness of a director to assume an obligation involving personal assets may constitute a contractual undertaking when it is based on a valid agreement. The resulting liability therefore derives from the contractual relationship voluntarily established by the parties, rather than automatically from the director's position within the company (Subekti, 2002).

The contractual relationship is also relevant when a company's obligation to fulfill workers' rights is subsequently accompanied by an agreement involving the director's personal undertaking. The object of an agreement constitutes the performance that must be fulfilled by the parties, while the purpose of the agreement concerns the legal result intended by the parties. Consequently, when a director agrees to fulfill a particular payment obligation using personal assets, the legal analysis must consider the content and purpose of the agreement as well as the source from which the obligation arises (Muhammad, 2019).

Legal Certainty in the Fulfillment of Severance and Compensation Obligations

Legal certainty is an important consideration in determining the rights and obligations of parties involved in a legal relationship. Mertokusumo explains that legal certainty enables individuals to understand their rights and obligations and to anticipate the legal consequences of actions undertaken within a legal relationship (Mertokusumo, 1993). In the context of employment termination, legal certainty is particularly important because workers possess legal rights that must be fulfilled when the employment relationship ends.

The thesis distinguishes between statutory employment obligations and obligations that subsequently arise from an agreement. Compensation or severance obligations initially arise within the employment relationship and are generally the responsibility of the employer. However, where a director voluntarily enters into a separate agreement concerning the fulfillment of such obligations, the agreement may create a new legal relationship between the parties. The legal certainty of the director's personal liability therefore depends upon the legal basis and validity of the agreement rather than merely upon the director's position within the company.

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This distinction is significant because imposing personal liability on a director without a clear legal basis may conflict with the separate legal entity principle and create uncertainty regarding the boundaries between corporate and personal responsibility. Conversely, where personal liability is expressly undertaken through a valid agreement, the obligation may be assessed based on the binding force of that agreement. The legal certainty approach is therefore used in this research to examine whether the applicable legal framework provides sufficient clarity concerning the director's responsibility for compensation payments involving personal assets.

Previous Relevant Studies

Several previous studies are relevant to the present research. First, Solihin (2023), in the study entitled Perlindungan Hukum Terhadap Hak Kompensasi Pemutusan Hubungan Kerja Menggunakan Aset Direksi (Studi Kasus Akta Perdamaian Nomor 1402/PDT.G/2021/PN.TNG), examined the legal protection of workers' compensation rights following termination of employment through the use of a director's personal assets. The study employed a normative juridical method with statutory and case approaches. Its findings indicated that the use of a director's personal assets to fulfill workers' rights arising from termination of employment may provide legal protection when incorporated into a legally binding settlement deed. The similarity with the present research lies in the examination of a director's personal assets in fulfilling workers' rights. The difference lies in the analytical focus: Solihin emphasized workers' legal protection and the binding force of the settlement deed, whereas the present research focuses on the director's contractual liability for compensation payments from the perspective of Article 1338 of the Civil Code and Law No. 40 of 2007 concerning Limited Liability Companies.

Second, Hamas (2024), in the thesis entitled Penerapan Doktrin Piercing the Corporate Veil dalam Perspektif Tanggung Jawab Direksi pada Perseroan Terbatas, examined the possibility of imposing personal liability on directors through the doctrine of piercing the corporate veil. The study concluded that directors may incur personal liability when their actions violate laws, the company's articles of association, or the principle of prudence and cause losses to other parties. The study is relevant because it discusses circumstances in which directors may bear personal responsibility despite the principle of limited corporate liability. However, its focus is on the piercing-the-corporate-veil doctrine in general, whereas the present research specifically examines the director's responsibility for compensation payments involving personal assets based on Article 1338 of the Civil Code and Law No. 40 of 2007.

Third, Gunawan (2009), in the thesis entitled Tanggung Jawab Pribadi Direksi Perseroan Terbatas, examined the personal responsibility of directors in a limited liability company. The study found that directors generally perform management functions for and on behalf of the company, so liability is ordinarily imposed upon the company. Personal liability may arise, however, where directors act beyond their authority (ultra vires), violate applicable laws or the company's articles of association, or commit fault or negligence resulting in losses. This study provides a conceptual basis for distinguishing ordinary corporate responsibility from circumstances that may generate personal responsibility. The present research differs by focusing specifically on the use of personal assets to fulfill workers' compensation obligations and examining the contractual basis of such responsibility under Article 1338 of the Civil Code.

Fourth, Tan and Lie (2026), in the study entitled Tinjauan Hukum Pemenuhan Uang Kompensasi dan Ganti Rugi dalam Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Undang-Undang Cipta Kerja, examined the fulfillment of compensation and damages for workers under fixed-term employment agreements. The study concluded that compensation constitutes a normative right of PKWT workers that must be fulfilled by employers under the Job Creation Law and Government Regulation No. 35 of 2021. This study is relevant to the present research because it establishes the normative character of workers' compensation rights. Its focus, however, is limited to the fulfillment of compensation and damages under employment regulations, whereas the present research examines the subsequent responsibility of a director when personal assets are used to fulfill such obligations.

Based on these previous studies, a research gap can be identified. Existing studies have discussed workers' legal protection, the use of directors' personal assets, the piercing-the-corporate-veil doctrine, personal liability of directors, and statutory compensation rights. However, these studies have not specifically examined the legal basis of a director's personal liability when the director voluntarily undertakes to use personal assets to fulfill a company's compensation or severance obligation through a contractual relationship. The present research therefore focuses on the interaction between the principle of separate legal entity, the binding force of Article 1338 of the Civil Code, and the provisions governing limited liability companies in determining the legal responsibility of directors in such circumstances.

RESEARCH METHOD

Research Design

This research employs a normative juridical research design. Normative legal research examines law as a norm, rule, legal principle, doctrine, and other legal literature to answer the legal issues under investigation. The research therefore focuses on the examination and analysis of legal norms rather than empirical data obtained from respondents or field observations (Soekanto & Mamudji, 1995; Marzuki, 2017). This research design is appropriate because the study examines the legal responsibility of the Board of Directors for the fulfillment of workers' compensation or severance

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obligations using personal assets, particularly from the perspective of Article 1338 of the Indonesian Civil Code and Law No. 40 of 2007 concerning Limited Liability Companies.

The research uses a statute approach and a conceptual approach. The statute approach is conducted by examining relevant statutory provisions governing agreements, employment termination, compensation or severance rights, and limited liability companies. The conceptual approach is used to analyze the legal concepts underlying the research, including contractual liability, freedom of contract, legal certainty, and the separate legal entity principle. These approaches enable the legal issue to be examined through both applicable statutory provisions and relevant legal doctrines (Marzuki, 2017).

Legal Materials and Data Sources

As normative legal research, this study does not involve human participants or a statistical sample. Instead, the research relies on secondary legal materials, consisting of primary, secondary, and tertiary legal materials. Normative legal research generally relies on documentary sources such as legislation, court decisions, agreements, legal principles, legal theories, doctrines, and legal opinions of scholars (Marzuki, 2005; Soekanto & Mamudji, 1995).

The primary legal materials consist of legislation and judicial decisions relevant to the research problem, including the Indonesian Civil Code, Law No. 40 of 2007 concerning Limited Liability Companies, Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation into Law, Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment, as well as relevant court decisions examined in the thesis.

The secondary legal materials consist of legal books, scholarly articles, previous research, and legal doctrines used to interpret and analyze the primary legal materials. The principal secondary sources include the works of Subekti, Suharnoko, Sudikno Mertokusumo, Abdulkadir Muhammad, and other legal scholars cited in the thesis. The tertiary legal materials are used as supporting materials to clarify legal terminology and concepts relevant to the analysis.

Procedure of Legal Materials Collection

The collection of legal materials was conducted through library research. The process began by identifying legal materials relevant to the legal issues concerning the responsibility of directors, compensation and severance obligations, contractual relationships, the principle of freedom of contract, and the separate legal entity principle. The identified materials were subsequently classified according to their legal authority and relevance to the research questions.

The collected materials were then examined systematically to identify the legal norms, principles, concepts, and doctrines relevant to the issue under investigation. This procedure is consistent with the characteristics of normative legal research, which emphasizes the systematic study of legislation, judicial decisions, agreements, legal principles, theories, doctrines, and other legal literature (Marzuki, 2005; Soekanto & Mamudji, 1995).

Legal Materials Analysis

The legal materials were analyzed using a qualitative juridical method with a deductive reasoning process. The analysis begins with general legal principles and applicable statutory provisions and then applies them to the specific legal issue concerning the responsibility of the Director for compensation payments using personal assets.

The analysis emphasizes the relationship between the principle of separate legal entity and the binding force of a contractual undertaking under Article 1338 of the Civil Code. The analysis also considers whether the use of personal assets by a Director creates personal liability based on the Director's corporate position or instead arises from a separate contractual relationship voluntarily established by the parties.

To ensure the validity and reliability of the legal analysis, the research examines the consistency and coherence of the legal materials. The coherence test is conducted by examining the conformity between legal rules, legal norms, and legal principles, while the consistency test ensures that the legal provisions and interpretations used in the analysis do not contradict one another (Marzuki, 2017). Legal interpretation is conducted primarily through grammatical and systematic interpretation, whereby the meaning of legal provisions is examined according to their legal wording and in relation to other provisions within the relevant legal framework.

The results of the analysis are presented descriptively and analytically to provide a systematic explanation of the legal basis for imposing responsibility on a Director when personal assets are used to fulfill the company's compensation or severance obligations. The analysis ultimately determines the extent to which such personal liability is legally justified under the Civil Code, the Limited Liability Company Law, and the relevant employment regulations.

RESULTS AND DISCUSSION

The research findings indicate that the use of a Director’s personal assets to fulfill a company’s severance or compensation obligations creates a legal relationship that must be distinguished from the Director’s position as an organ of the company. The findings are presented based on the validity of the agreement, the source of the Director’s liability, the principle of separate legal entity, and the jurisdiction applicable to disputes arising from the agreement.

Validity and Binding Force of the Agreement

The first finding concerns the legal validity of an agreement in which a Director undertakes to use personal assets to secure or fulfill the company’s severance payment obligations. An agreement constitutes a legal relationship that gives rise to rights and obligations for the parties involved. Its validity is determined by the fulfillment of the requirements

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stipulated in Article 1320 of the Civil Code, namely agreement, legal capacity, a certain subject matter, and a lawful cause (Suharnoko, 2012).

The fulfillment of these requirements establishes the agreement as a valid contractual relationship. Article 1338 paragraph (1) of the Civil Code further provides that a legally formed agreement binds the parties as law. The agreement therefore becomes the legal basis for determining the obligations voluntarily undertaken by the parties (Subekti, 2002; Suharnoko, 2012).

In the context examined in this research, the Director's undertaking to use personal assets for the payment of the company's severance obligations constitutes an obligation arising from the agreement. The personal assets remain legally distinguishable from the assets of the company. Their use for the fulfillment of the agreed obligation does not, by itself, change their ownership status.

Source of the Director's Personal Liability

The second finding establishes that the Director's personal liability does not arise automatically merely because the individual holds the position of Director. The liability examined in this research originates from a separate legal relationship created through the Director's voluntary contractual undertaking.

The legal position of a company as a legal entity distinguishes the company's assets from the personal assets of its organs. The company possesses its own rights and obligations, while the Director performs functions within the corporate structure (Subekti, 2002). Consequently, an obligation initially borne by the company does not automatically become a personal obligation of the Director.

The findings show that personal liability arises when the Director expressly undertakes an obligation through an agreement concerning the fulfillment of the company's severance or compensation debt. The source of the obligation is therefore the contractual relationship established between the parties. This distinction separates liability based on corporate position from liability based on an independently formed agreement.

Application of the Separate Legal Entity Principle

The third finding concerns the relationship between the Director's personal assets and the company's assets. The separate legal entity principle establishes that a company has an identity and assets that are legally separate from those belonging to its shareholders, Directors, or other organs.

The use of personal assets by a Director to fulfill an agreed severance obligation does not eliminate this separation. The personal assets remain the property of the Director unless a separate legal act produces a different legal consequence. Likewise, the company's obligation to fulfill severance or compensation remains distinguishable from the Director's personal contractual undertaking.

The findings therefore establish two legally separate positions. First, the company remains the party bearing the underlying severance or compensation obligation. Second, the Director may assume a personal contractual obligation when voluntarily undertaking to use personal assets for the fulfillment of that obligation. This distinction is consistent with the concept of separate legal personality discussed in the literature on corporate law (Subekti, 2002; Sutedi, 2015).

The Position of the Company When It Is Not Bankrupt

The fourth finding concerns a company that remains solvent and has not entered bankruptcy proceedings. In this condition, the company's obligation to fulfill employees' severance or compensation rights remains attached to the company as the party responsible for the employment relationship.

The Director's use of personal assets does not transfer the company's assets into the Director's personal ownership or, conversely, transform the Director's personal assets into corporate assets. The payment arrangement represents a mechanism for fulfilling an obligation that has been expressly undertaken through the relevant agreement.

The legal separation between the company and the Director therefore remains applicable. The Director's personal payment or guarantee is treated as an independently undertaken contractual obligation and does not alter the legal identity of the company or the ownership status of the assets involved.

Legal Position in Disputes Concerning the Subsequent Agreement

The fifth finding concerns disputes arising from an agreement subsequently made to settle or regulate the payment of severance or compensation. Where the claim concerns the performance of obligations contained in such an agreement, the legal object examined by the court is the contractual relationship established by the parties.

The research identifies that the legal relationship may change when the parties enter into a subsequent agreement that specifically regulates the fulfillment of the payment obligation. A settlement agreement or other contractual instrument may establish new rights and obligations that become the basis for determining whether a party has fulfilled or breached the agreed obligation.

In relation to judicial competence, the findings indicate that a dispute concerning the performance of such a contractual obligation may fall within the jurisdiction of the District Court when the substance of the claim concerns breach of contract arising from the agreement. The determination of jurisdiction is connected to the legal basis and object of the claim submitted to the court (Mertokusumo, 2009)

Summary of the Research Findings

The principal findings of this research can be summarized as follows :

No.	Research Finding	Legal Position

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1	An agreement concerning the use of a Director's personal assets for severance or compensation obligations may be legally valid when the requirements of Article 1320 of the Civil Code are fulfilled.	The agreement is legally binding under Article 1338 of the Civil Code.
2	The Director's personal liability does not arise automatically from the Director's corporate position.	Liability arises from the separate contractual undertaking voluntarily made by the Director.
3	The Director's personal assets remain legally separate from the company's assets.	The use of personal assets does not eliminate the separate legal entity principle.
4	When the company is not bankrupt, the underlying severance or compensation obligation remains a company obligation.	The Director's personal undertaking constitutes a separate contractual obligation.
5	A dispute concerning the performance of a subsequent payment or settlement agreement may constitute a breach-of-contract dispute.	The District Court may have jurisdiction when the claim is based on the contractual relationship rather than the determination of employment rights.

Overall, the findings establish that the legal consequences of using a Director's personal assets for company severance or compensation obligations depend on the contractual relationship created by the parties. The Director's personal liability is distinguishable from the company's original obligation, while the separate legal status of the company and the ownership status of personal assets remain legally maintained.

Discussion

Contractual Liability of the Director and the Principle of Freedom of Contract

The most significant finding of this study is that the personal liability of a Director arising from the use of personal assets for the fulfillment of company severance obligations must be distinguished from liability arising solely from the Director's corporate position. This distinction is important because the legal relationship between the company and its employees is initially a corporate relationship, whereas the Director's personal undertaking creates a separate contractual relationship.

The finding is consistent with the theory of contract, which places an agreement as the basis for the emergence of rights and obligations between the parties. An agreement that fulfills the requirements of Article 1320 of the Civil Code obtains legal validity, while Article 1338 paragraph (1) establishes its binding force upon the parties (Suharnoko, 2012). The principle of freedom of contract therefore provides a legal basis for a Director to voluntarily undertake a personal obligation, including an undertaking involving personal assets, provided that the agreement does not violate the requirements of validity and the applicable law.

Subekti (2002) explains that a legally formed agreement binds the parties in the same manner as law. In this context, the Director's personal obligation cannot be viewed merely as a consequence of holding the position of Director. The obligation must instead be assessed from the agreement that establishes the individual's undertaking. The legal consequence is consequently contractual rather than automatically corporate.

This finding also provides a distinction from the general concept of corporate responsibility. A Director may act on behalf of a company within the scope of corporate authority, but a Director may also enter into a personal legal relationship. Once a Director expressly undertakes an obligation in an agreement in an individual capacity, the resulting obligation must be assessed based on the agreement itself. The source of liability is therefore the legal relationship created by the parties rather than the Director's status alone.

Personal Assets and the Separate Legal Entity Principle

The second significant finding concerns the relationship between the Director's personal assets and the company's assets. The use of personal assets to fulfill a company-related obligation does not, by itself, eliminate the distinction between the two categories of assets. This finding corresponds with the separate legal entity principle, under which a limited liability company has a legal personality separate from its shareholders and corporate organs.

The separate legal entity principle is particularly relevant to the present issue because the underlying severance obligation remains associated with the company. The Director's decision to use personal assets represents an additional legal undertaking and does not automatically transfer the company's liabilities into the Director's personal sphere. The distinction between corporate assets and personal assets consequently remains relevant even when the Director voluntarily uses personal property to satisfy an obligation associated with the company.

Subekti (2002) distinguishes the legal personality and assets of a legal entity from those belonging to the individuals associated with it. This concept supports the finding that the Director's personal assets cannot automatically be treated as company assets merely because they are used to fulfill a company-related obligation.

The finding is also consistent with the discussion of Directors' personal responsibility in previous legal studies. Gunawan (2009) discusses the possibility of personal responsibility of Directors within the framework of corporate law, while Hamas (2024) examines the relationship between the principle of separate legal entity and the circumstances in which the separation between corporate and personal responsibility may become legally relevant. The present study differs by focusing specifically on personal liability created through a contractual undertaking concerning severance payment rather than treating personal liability as an automatic consequence of the Director's corporate position.

Legal Certainty in the Fulfillment of Severance Obligations

The findings can further be understood through the theory of legal certainty. Legal certainty requires that legal rights, obligations, and consequences can be identified clearly so that the parties can determine the legal consequences of their actions. Mertokusumo (1993) places legal certainty within the function of law to provide a clear basis for determining the rights and obligations of legal subjects.

In the context of severance payments, legal certainty requires clarity regarding the party responsible for the underlying obligation and the legal basis for any additional undertaking made by another party. The company remains associated with the original employment obligation, while a Director who voluntarily enters into a personal agreement assumes the obligations specified in that agreement.

This distinction prevents the legal consequences of the agreement from being interpreted solely from the Director's corporate position. The contractual instrument provides a more specific basis for determining the extent of the Director's personal obligation. The application of Article 1338 of the Civil Code consequently strengthens the certainty of the legal relationship because the obligations agreed upon by the parties become the principal reference for assessing performance.

The finding also complements the study by Adi, Nobella, and Chamdani (2025), which discusses legal protection concerning compensation for workers under the framework of the Job Creation Law. Their study primarily addresses the protection of workers' compensation rights, whereas the present study examines the legal consequences when a Director personally undertakes to secure or fulfill an obligation associated with severance payment. The present research therefore extends the discussion from the employee's entitlement to the contractual position of the Director who voluntarily assumes an additional obligation.

The Subsequent Agreement as a New Legal Relationship

Another important finding is the legal significance of a subsequent agreement concerning the settlement or payment of severance. The existence of a new agreement affects the legal relationship that must be examined when a dispute subsequently arises. The dispute cannot be assessed solely by referring to the original employment relationship when the parties have subsequently established specific contractual obligations concerning the settlement of the payment.

The theory of contract supports this approach because an agreement creates rights and obligations that must be performed by the parties. When the parties voluntarily formulate a subsequent agreement, the agreement becomes an independent legal basis for assessing the fulfillment of the obligations expressly contained therein (Suharnoko, 2012).

This finding is relevant to the research of Solihin (2023), which examined legal protection for employees and the binding force of a settlement deed. The previous study demonstrates the significance of a settlement instrument in determining the parties' legal relationship. The present study develops this perspective by focusing on the consequences of such an agreement for the Director who assumes a personal obligation through the settlement arrangement.

The legal consequence is that a breach arising from the subsequent agreement should be assessed according to the obligations established in that agreement. The existence of a new contractual relationship therefore becomes significant in determining the legal basis of a claim and the appropriate judicial forum.

District Court Jurisdiction and the Change in the Legal Relationship

The finding concerning District Court jurisdiction demonstrates that the determination of judicial competence cannot be based solely on the fact that the dispute originated from an employment relationship. The substance and legal basis of the claim must also be considered. When the claim concerns the performance of a contractual obligation arising from a subsequent agreement, the legal issue becomes one concerning the implementation of the agreement.

Mertokusumo (2009) explains the importance of distinguishing the legal basis and nature of a claim in determining judicial competence. This perspective is relevant where an employment-related dispute subsequently develops into a dispute concerning the performance of a civil agreement. The legal characterization of the dispute must therefore follow the object and basis of the claim presented before the court.

This finding is significant because it establishes a distinction between two different legal questions. The first concerns the employee's substantive entitlement to severance or compensation arising from the employment relationship. The second concerns whether the parties have complied with a subsequent agreement governing the fulfillment of that obligation. Where the latter becomes the subject of the claim, the dispute is examined from the contractual relationship established by the parties.

Relationship Between the Findings and the Research Gap

The findings address the gap identified in previous studies concerning the relationship between corporate legal personality, contractual liability, and the use of a Director's personal assets for company-related severance obligations. Existing discussions have generally focused on employee compensation, Director liability in corporate law, or the binding force of settlement agreements separately.

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Solihin (2023) focuses on employee legal protection and the binding force of settlement arrangements. Hamas (2024) discusses the piercing of the corporate veil and the personal responsibility of Directors, while Gunawan (2009) addresses the personal responsibility of Directors within corporate law. Adi, Nobella, and Chamdani (2025) focus on workers' compensation within the Job Creation Law framework. These studies provide separate legal perspectives but do not specifically examine the personal contractual undertaking of a Director involving personal assets for the fulfillment of company severance obligations.

The present study therefore connects these legal concepts by placing Article 1338 of the Civil Code at the center of the contractual analysis while maintaining the separate legal entity principle as a limitation on the interpretation of corporate and personal assets. The resulting legal construction demonstrates that personal liability may arise without eliminating the separate legal personality of the company.

The overall discussion confirms that the legal position of a Director who uses personal assets for company severance obligations should be determined through the legal source of the obligation. Where the obligation originates from a valid agreement, Article 1338 of the Civil Code provides the binding basis for the parties, while the separate legal entity principle continues to distinguish the company's legal personality and assets from those of the Director. This framework also provides the basis for determining the legal character and judicial competence of disputes arising from subsequent agreements.

CONCLUSION

This study concludes that an agreement in which a Director undertakes to use personal assets to fulfill or secure the company's severance or compensation obligations may constitute a valid and legally binding agreement, provided that the requirements for a valid agreement under Article 1320 of the Indonesian Civil Code are fulfilled. The binding force of such an agreement is based on the principle of freedom of contract and the provisions of Article 1338 of the Civil Code. Therefore, the Director's personal liability does not arise merely from his or her position as a corporate organ, but from the contractual relationship voluntarily established between the parties.

The use of the Director's personal assets does not eliminate the separate legal entity principle of a limited liability company. The company and the Director remain legally distinct, and the Director's personal assets do not automatically become company assets merely because they are used to fulfill an obligation arising from an agreement. Where the company is not declared bankrupt, the underlying obligation to provide severance or compensation remains the company's obligation. The Director's involvement through personal assets represents a separate contractual undertaking and does not transfer ownership of the company's obligations to the Director automatically.

The study also finds that a subsequent agreement concerning the payment of severance or compensation may establish a new legal relationship between the parties. Consequently, when a dispute concerns the performance of obligations arising from such an agreement, particularly where the claim is based on breach of contract, the District Court may have absolute jurisdiction to examine the dispute. The determination of jurisdiction must consider the legal basis and object of the claim rather than merely the fact that the dispute originated from an employment relationship.

The main contribution of this study lies in clarifying the distinction between corporate liability and personal contractual liability of a Director in the fulfillment of severance obligations. This distinction provides legal certainty regarding the consequences of a Director's voluntary undertaking to use personal assets while maintaining the separate legal personality of the company. The limitation of this study is its normative juridical approach, which relies primarily on legislation, legal literature, and judicial decisions without empirical examination of practices in the field. Future research may therefore examine the practical implementation of agreements involving Directors' personal assets, particularly regarding contractual clauses, enforcement mechanisms, and the protection of employees' rights.

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