Advances in Social Science, Education and Humanities Research, volume 499
2nd International Conference on Law, Governance and Social Justice (ICOLGAS 2020)

The Law Impact on The Inheritance of Nominee Arrangement in Indonesia To The Third Party of Share Buyers

Ari Tri Wibowo[1], Tri Lisiani Prihartinah[2]
[1,2]Jenderal Soedirman University, Purwokerto - Indonesia
Email : aritriw@gmail.com

Abstract--Plenty of the nominee arrangement traditions in Indonesia become obstacles to the nominee arrangement's trade chiefly when the inheritance of nominee arrangement is previled. This study examines the legal repercussion of nominee arrangement to the third parties of share buyers. This study used normative juridical approach. Then, the legal evidence were collected through literature reviews study and documents. The result has indicated that the existence of nominee arrangement inheritance can precipitate to law on share buying, exclusively the trade of share is carried out by the beneficiary without the awareness of the nominee or the nominee's inheritance. The third party who buys the shares will have a large legal impact.

Keywords- Legal impact; Inheritance; Nomine Arrangement.

I. INTRODUCTION

In Indonesia, Legal Inheritance involves of different laws regarding to its types, as we know, the legal inheritance associates of customary inheritance law, Islamic inheritance law, and Western Civil Inheritance Law. Early, the private property rights were unfamiliar, the only group property rights which is survived, thus the issue of inheritance did not cause problems. In the subsequent development of society, the relationship between a person and his property is closely related, when a person dies and leaves an inheritance, it will set into the right to inherit. One of the inheritance assets which may be left by an heir is the shares of a limited liability company.

The swift era development has followed some various forms of inheritance in which coming from the heirs. One of the requisite to presence such an inheritance is about the existence of an inheritance itself. It can be assets or accountabilities that has left by the heir and in other hand, it can be called as someone's share which is escaped by the heir.

Many people achieved their business by establishing a Limited Liability Company. They assume that provide such a Limited Liability Company will facilitate and perpetuate their business. In addition, it will also be secure to handle their business through a Limited Liability Company, due to it is a legal entities that have their own property. Besides, they do not directly employ their personal assets.

Additionally, besides humans as the rights beneficiary or as legal subject, there are also agencies and associations that have rights and execute the legal actions like a human being. These agencies and associations actually have their own assets. They participate to legal movement through their management. By mean of these statement, then, a judge may accuse and or can be accused.

The existing legal entities is a Limited Liability Company. We can see the definition of a Limited Liability Company, according to Law number 40 of 2007 concerning Limited Liability Companies (UUPT) the definition of a Limited Liability Company, namely a legal entity which is a capital partnership, a Limited Liability Company is established with an agreement by the Company. Ideally, it must be established by 2 (two) people or more. Additionaly, each founder of the Company are also involved. The Business activities which are entirely divided into shares. Elucidation of article 7 paragraph 1 of the Limited Liability Company Law is defined as an individual, either Indonesian or foreign citizen or Indonesian or foreign legal entity. The provisions in this paragraph confirm that the Company is established based on an agreement, because it has more than one shareholder.

Indonesia is one of proper country to foreign investor apply an investment. The rich of natural wealth and cheap payment for employment lead the foreign investors to consider of expending funds to Indonesia. Foreign investment is able to encourage economic growth of Indonesia. It has a positive and significant effect on Indonesia's economic growth. Foreign investment is pivotal and the positive effect refers to economic growth in all regions.

Further strengthen financial country systems is ideally one of way to strengthen the domestic economy from external shocks. Based on the investment period, it can be divided into two, namely long term and short term. Long-term investments can be realized through the construction

of factories by multinational companies that are expanding and seeking economic efficiency. Meanwhile, the form of short-term foreign investment can be realized through the purchase of assets by foreigners.

Foreign investment or Foreign Direct Investmen (FDI) is an foreign investment in which comes from foreign country. This investment usually is carried out by an foreign investor. He or she are interested to invest their assets to develop business in another country. The impact of FDI is closely essential to increase the country's economic growth. FDI constributes the development of technology, chiefly in the field of business, contrary to domestic investment. FDI is assumed more productive than domestic investment.[1]

There ara several kind of investments which is banned to apply by foreign investor such as production of weapons, ammunition, explosives and war equipment, and other business fields which according to the regulations are explicitly closed to foreign investors, it leads foreign investor to propose a nominee arrangement. Perhaps, they are able to invest such banned investment that has mentioned previously.

The nominee arrangement in the establishment of a Limited Liability Company give rise to share ownership and name borrowing. There are two parties of share ownership, the first is the beneficiary as the party who is actually the shares owner, and the second party refers to the nominee, it is called as the person or a legal entity whose name is borrowed or used by the beneficiary as a shareholder, the nominee therotically as de jure is about the legal party of legal ownership of shares, due to the sign is registered as the shareholder, but in fact the one who will succed on behalf of the share ownership is the beneficiary, the nominee perform to what is ordered by the beneficiary, approximately in the situation where the nominee arrangement selling the shares is the beneficiary without the judgement of the nominee party as the share owner who is legally proved. There is an agreement between the beneficiary and the nominee. The agreement argues the beneficiary is the funder and the nominee prevent to against the shares it owns in the future.

II. PROBLEMS

By means of the above descriptions, then, the writer has found the problem: How is supposing that inheritance of the nominee arragement and the sale of shares by the beneficiary are occured without the share owner's insight whose their name are registered and is also unknown to the heirs, thus there will be two research problems that will be discussed in this paper, first, how is the legal strenghten of the nominee arrangement that is arranged by the beneficiary regarding to the nominee agreement?. Second, how is the impact of the inheritance of the Nominee Arrangement towards trade of nominee arrangement or trade of share by the beneficiary to the third party of shares buying?

III. RESEARCH METHOD

The research method uses the normative juridical approach normative juridical approach according to Soerjono Soekanto is a legal research conducted by examining literature and secondary materials as a basis for research, by tracing the regulations and also the existing literature and related to research which is made. Because library material is the main material, the primary legal material consists of norms, rules and basic provisions, as well as statutory regulations. And also uses secondary legal material which includes primary legal material.

IV. DISCUSSION

1. The legal strenght of nominee arrangement that is conducted by beneficiary respecting to the nominee arrangement.

The definition of "Share" according to Black's Law Dictionary 4th as follows:

"In the law of corporations and joint-stock companies, a definite portion of the capital of a company.

Share of corporate stock. A proportional part of certain rights in the management and profits of a corporation during its existence, and in the assets upon dissolution, and evidence of the stockholder's rateable share in the distribution of the assets on the winding up of the corporation's business"

Black's Law Dictionary 4th describe about the share position in such company. A share becomes an evidence to the company ownership. Black's Law Dictionary explains certain that rights of management, profits of a company are based on the existence of its company. By means of these, it can be judged as company share. Black's Law Dictionary has mentioned the exsistence of asset. Asset is

Proportionate part of the company's shares. It can be concluded that shares are the company's assets. If someone has their owns shares, it means that they also have their own assets of the company, however, even though the owner of the shares also owns the assets, the assets are integrated based on the percentage of share ownership but it is a business entity, thus that if these assets probably transferred or intended to be sold it needs to consider to the General Meeting of Shareholders.

There are many advantages of a Limited Liability Company, namely allowing the collection of basic capital, having the status as a legal entity, having limited responsibilities, transfer of ownership will be easier, the period is unlimited, management is stronger, the survival of the company is more secure and usually for Direct Foreign Investment (FDI) has a tax-free facility (tax holiday).[2]

The provisions of Limited Liability Company establishment are based on an agreement. However, the mandatory requirement the shares of a Limited Liability Company should be owned by two shareholders. In other hand, it causes legal smuggling by using a simulated agreement (simulation), or using a nominee (stroman), for instance, a Limited Liability Company was established by A and B where A by contract under signature has transferred his shares to B or by means of A acknowledges and declares that the shares which formally belong to him are actually the property of B.[3]

The legal smuggling rejects the legal regulations, and there is no penalty or sanction if the smuggling has not perceived by another interested parties, however this will be the serious problems in the future, legal smuggling will have fateful consequences. In the Article 1320 of the Civil Code regulates, one of the conditions to the validity of an agreement, lawful cause, Wirjono Prodjodikoro says that there has not been Indonesian letter that mentions correct meaning of this causa. The word "cause", according to him is inaccurate because cause always meets the motive (oorzak en gevlog), whereas causa does not produce a something, but a mere state.

Law does not present an understanding of cause (oorzak, causa). It is clear that causa is not a causal excange, thus the understanding of causa is not about a cause which encourages the parties to arrange an agreement, due to a person's motive to apply an agreement does not become as legal concern.

The Civil Code (KUHPerdata) perceives three kinds of causes as follows: a. a causal agreement is an agreement which has not purpose or cause and it does not belong to a prohibited cause. This set of aggrement is intended impossible to implement. For instance: A novation agreement which means to readjust the ancient or old agreement to the current or new agreement. It can be ilustrated that if the substitute of an old agreement does not exist, then the novation agreement is canceled; b. Prohibit agreement, it does contain a cause but not an actual cause. A fictitious cause seems to be unreal cause, can be a prohibited cause or that is against the law, public order or morals and it can also be a imitation cause that is not a prohibited cause. C. Agreement with prohibited causes, it is an agreement with prohibited causes which means an agreement that is contrary to law, morals and public order.[4]

According to jurisprudence, causa is interpreted as the content or purpose of the agreement. Causa is an endeavour to place the agreement under the supervision of a judge. Practically, it depens on the causa condition. The judge tests to obtain whether the objectives of the agreement can be implemented or not. Additionaly, it is also useful to gather whether or not the contents of the agreement do not conflict with law, public order, and morality.

Agreements may be applied without cause or arranged for deceitful or prohibit reasons. Prohibited causes are causes that are restricted by law or contrary to decency or public order. This kind of agreements indeed prepare for this reason. However, it has no legal force.

With regards to the restrictions of capital ownership No. 25 of 2007 explicitly prohibits investment to conceive documents respecting to the nominee ownership in Indonesia. However, the practice of nominee share ownership is still applied. Then, the description of Law No. 1 paragraph 33 concerning to the Investment confirms that the purpose of this provision is to prevent the occurrence of a limited company legally owned by a division, but in reality the owner of the company is from another party. Nominee arrangements between the principal investor and nominee shareholders are usually carried out based on a set of documents and agreements that are generally recognized in the Indonesian legal framework, such as loan agreements, share pledge agreements, transfer agreements, and power of attorney. Therefore, in practice, the principal investor and nominee shareholders do not sign any nominee agreements, but they arrange to nominee agreements.[5]

In paragraphs 1 and 2 of Article 33 of Law Number 25 of 2007 regarding to investment, it has explained that domestic investors and foreign investors who invest in the form of a limited liability company are prohibited from entering into agreements and / or statements confirming that share ownership in a limited liability company is for and on behalf of others. These agreements will be denied and avoid. Furthermore, the nominee agreement that is prepared for such form and can be proven to have occurred will be denied and void.

Through legal smuggling of law, the nominee agreement arranged and agreed upon by the beneficiary and the nominee will be deemed valid by the parties, the beneficiary will apply and take his voting rights in nominee share ownership, even though we know de jure the shares belong to the nominee party, by the legal of limited liability company it is stated that the transfer of shares must be with the approval of the unit of the limited

liability company, the units here are member of a limited liability company, they are the general meeting of shareholders, directors and commissioners, of course the beneficiary. It will be very obvious to transfer shares on behalf of the nominee party to another party with the knowledge or even without the knowledge of the nominee party, de facto the beneficiary is the shareholder with the largest percentage, even though in fact the nominee is registered as the share owner and is entitled to transfer the shares. It is called as the nominee party.

Limited Liability Company shares are commonly traded using a deed of transfer of rights. The process of selling shares have to use a deed of transfer of rights. The deed of transfer of rights means a written agreement that has arranged between the share owner who will sell his shares and the party who will buy the shares. Basically, deeds of transfer of rights can be applied before a public notary and deeds can also be drawn up under hand. After the sale of shares as a result of the deed of transfer of rights, the next step is for the board of directors of PT to have the obligation to record the transfer of rights over the shares in the list of shareholders or a special register with the aim of being immediately notified to the Minister of Law and Human Rights. The rules regarding deeds of transfer of rights and obligations of directors to register them in the register of shareholders are regulated in Article 56 of the Limited Liability Company Law.

An agreement in an agreement is basically a meeting or agreement of will between the parties to the agreement. A person is said to be giving his consent or agreement (toestemming) if he really wants what is agreed upon. Mariam Darus Badrulzaman describes the notion of agreement as a condition of an agreed will (overeenstemende wilsverklaring) between the parties. The statement of the party offering is called the offer (offerte). The statement of the party that accepts the offer is called an acceptance (acccceptatie).[6]

An agreement probably have a renounce of demand or it is considered to non-existent if the conditions as follows: there is coercion (dwang), there is an error (dwaling), and there is fraud (bedrog); and in its further development, another renounce of demand has become familiar, it is called as the abuse of circumstances (misbruik van omstandigheden). Thus, there are at least four groups of defective volitional forms.

The activity of selling nominee shares become defected if the demand of the agreement consists of coercion and fraud. The conformity between the demand and the statement is the basis of constructing an agreement. Even if there is an agreement between them, a legal action is able to be canceled. It happens if there is coercion (dwang). It occurs when someone change another person to do a legal act, using a method that is against the law. Threatening to cause harm to the person or his property or to the third party and the property of the third party. The risk is resulted using legal and or illegal instrument. [7]

Fraud or deceit (bedrog) is regulated in Article 1328 of the Civil Code and is a demand of defect. Someone intentionally allows the another poeple a digression. Fraud occurs due to blind facts and the information is intentionally given untruth or by using other deception. It is an excuse to retirement of an agreement, if one of the parties deliberately tricks, by providing false and untrue information to persuade the opposing party to give consent. Fraud is not suspected, but it must be proven.[8]

Between nominee agreement and purchase agreement are distinction. Nominee agreement is usually established after a limited liability company has been legal as a legal entity, it can be said to have violated one of the legal terms of the agreement in Article 1320 of the Civil Code, which is a lawful cause. It is clear that the nominee agreement offends the provisions of the statutory regulations. This agreement will be worthless and void, as a condition of the validity of the agreement which is seen from the objective side if it is shocked, it will automatically become invalid. Then, whether the nominee share sale and purchase agreement through the feat of transfer of rights can be said to be a defect of demand, the sale of shares which is known and agreed upon by the nominee party is assumed. Even though it is known by the nominee. However, this is based on the will of the beneficiary who is de facto the owner of the the shares, because in the nominee agreement it is usually stated that the shares owned and registered in the name of the nominee party actually belong to the beneficiary, so based on the nominee agreement the beneficiary has completely control over the nominee shares.

Congruent to the agreement is respecting to the demand and that is why people say people are bound by covenants because of their own demand. The law in principle seems only regulates what appears outward. The nominee represents the interests of the beneficiary and therefore the nominee realizes special actions. It must be in accordance with what has been agreed in the nominee agreement and indeed adhere to the orders given by the beneficiary. The desire to sell can not be existed due to the demand of the nominee itself. It means that the activity of the share sale agreement does not appropriate to the demand and coercion statement from the sale of nominee shares is identified, nominees are forced to sell shares registered in their name to third parties because they are ordered by the beneficiary to sell these shares, because based on the nominee agreement the beneficiary has a high firmness over the shares and the nominee adhere to

what is required. The nominee agreement is deemed valid for the parties even though it does not complete the ideal agreement.

It has been clear that the sale of shares through a deed of transfer of rights based on a nominee agreement has a possibility to be defected. The share sale agreement can be canceled, then how will the impact on the third party buying the shares, indeed refers to the third party of the nominee share buyer. This is very detrimental. In the Article 1265 of the Civil Code states "a condition cancellation is a condition which, if fulfilled, terminates the engagement, and brings everything back, to its original state, as if there had never been an engagement."

If this happens, the third party that buys shares can file a lawsuit regarding compensation. The agreement ideally must have valuable intention. In the Article 1338 paragraph (3) of the Civil Code discusses the implementation of an agreement and reads: "Agreements have to be realzed use valuable intention". An agreement that is established to the agreement, the parties are not only bound by the words of the agreement, but also by valuable intention.

Martijn Hasselin says that the objective of valuable intention refers to the normative concept. In fact, it is often seen as the highest norm of contract law, contract law, and even civil law. It is announced to be related to moral standards. It is also said to be a moral standard in itself such as a legal ethical principle, then valuable intention means honesty. Thus, basically valuable intention means that one party must pay attention to the interests of the other party in the contract. On the other hand, it can be said to be the entrance to law through moral values. With such conditions, it becomes an open norm whose the content cannot be determined abstractly, but is determined through case-by-case concretization by taking into account the existing conditions.[9] Valuable intention indeed have to exist not only at the stage of making (signing) and post-making (implementing) the contract, but also at the pre-making (designing) stage of the contract.[10]

The beneficiary may also sell shares and borrow the name (nomine arrangement) without any judgement by the nominee. This can occur because the nominee agreement will be followed by several agreements and proxies which are the supporters of the nominee agreement which is usually signed by the nominee and beneficiary, this agreement and supporting power is to protect the beneficiary's interests on shares which are legally recognized as belonging to the party. nominee, and one of which is made here is a power of attorney to sell this power of attorney containing the granting of power from the nominee to the beneficiary. The deeds made either notarized or under the hands of the nominee agreement are as follows: Share pledge agreement, debt acknowledgment deed, power of attorney for General Meeting of Shareholders, and Power of Attorney to sell shares.[11]

The authority agreement advertises shares that is conducted by nominee and beneficiary is to empower the beneficiary position on the shares ownership. This authority can not stand alone, it integrates to the basic or principal agreement, that is nominee agreement. The agreement will be cancelled if the principal agreement is also canceled.

Legally the beneficiary has the right to sell the own shares and registered on behalf of the nominee party. Authorization in the form of a Selling Authority may be in the form of an independent Selling Authority and an independent Selling Authority. The form of granting power to sell that stands alone means that the provision of power of attorney is an independent agreement and not based on a basic agreement, while the power of attorney that is not independent is the provision of power to sell which rests on the main agreement, so that if the principal agreement is canceled or canceled, then this power of attorney also becomes cancel or is canceled.[12]

Article 1792 of the Civil Code explains "The granting of power is an agreement whereby a person gives power to another person, who receives it, to carry out an affair on his behalf". The parties have the freedom to make an agreement, one of which is regarding what power the buyer receives from the seller. This is where the power of attorney can give absolute power. Absolute power is the power that the giver of power cannot withdraw. The granting of absolute power cannot be separated from the contents of Article 1813 of the Civil Code, the provisions regarding the expiration of a power of attorney and the accountability of the recipient of the power of attorney as stipulated in Article 1813 of the Civil Code, it is stated that the power of attorney will end if: Power is withdrawn, Notification of termination of power, Death, interdiction or bankruptcy of the power of attorney or the one who receives the power of attorney and the marriage of the woman who gives the power of attorney or who receives the power of attorney (this last provision is no longer valid). This means that if the elements contained in Article 1813 of the Civil Code are fulfilled, the power-giving agreement that is made will result in no longer legal force.

In accordance with the previous discussion, the purchase agreement of the nominee agreement can be cancelled approriate with the legal condition. The sale of nominee arrangement whether it is known or not by the nominee can be revealed to the law. The third party of share buyers indeed have to be aware in buying nominee shares. Even though, due to the ignorance and the valuable intention of the share

buyer, share buyer are able to ask the compensation for losses arising from the sale of the nominee's shares.

2. The impact of nominee arrangement inheritance towards the sale of nominee arrangement from the beneficiary to the third party share buyers.

Transfer of shares of a Limited Liability Company due to a legal event such as death, causes the shares to change hands to the shareholder's heirs. This transfer will cause legal problems, especially if the share sale and purchase agreement is no longer legally enforceable. An inheritance is only done because of death, we can take an example in civil inheritance. In the Article 830 of the Civil Code states that inheritance will be carried out after a person has died leaving their assets and there is an heir who is entitled to the inheritance. Ownership of shares in a Limited Liability Company is transferable In accordance with Article 60 paragraph (1) of the Limited Liability Company Law, shares are classified as movable property, so that their ownership can be transferred either by means of a legal act, in this case a sale and purchase or by a legal event as the concequences from death.

One of the the case related to the inheritance of nominee shares that has occurred in Indonesia can be seen from the decision of the Mahkamah Agung Number 1929 K / Pdt / 2013. It can be ilustrated as: Johansyah Van Empel's heirs sued about the ownership of shares that had been sold and bought to other parties, because the heirs stated that Johansyah Van Empel's party and his heirs did not know about the share sale and purchase. The defendant felt that the shares being traded belonged to him because after signing the Limited Liability Company Johansyah Van Empel made a nominee agreement followed by a statement of power to sell the shares. The agreement states that the shares taken in the company are supplied from Korindo Co. HK who is domiciled in Hong Kong and that 360 (three hundred and sixty) shares currently registered under its name in the limited liability company PT. Berkat Cipta Abadi is the property of Korindo Co. HK and therefore the shares can be sold by Korindo Co. HK to anyone who wants to buy it, so this certificate is also a power of attorney to Korindo Co. HK to sell these shares and therefore I will not make any claims in the future regarding these matters.

Nominee arrangement are de jure owned by nominee parties, so that in the situation of death of the nominee, of course there will legally be a transfer of share ownership through inheritance, shares are movable objects, so they must comply with the provisions of Article 1977 of the Civil Code which regulates the principle of possession of movable objects, thus the shareholder has the right to transfer the shares, there will be many problems if the nominee share inheritance occurs, because the nominee share heir is the legal right owner in the situation and or the condition of share inheritance.

The sale of a nominee arrangement, which is based on a sale and purchase agreement that has been legally cancel or is canceled, will certainly bring the shares back to their original state, namely that the shares will still be owned by the nominee. If there is an inheritance of the shares, the heirs of the legal share owners are entitled to claim the rights to the shares that have been sold. In the Article 52 paragraph (1) of the Limited Liability Company Law explicitly stipulates that shares give rights to their owners to: attend and cast votes at the RUPS, receive dividend payments and the remaining assets resulting from liquidation, exercise other rights under the Limited Liability Company Law. The position of the heirs based on what is explained in the article is that shares that have been traded under a legally nullified or canceled sale and purchase agreement must be returned to their original state where the agreement to buy and sell shares never existed. This is regulated in Article 1265 of the Civil Code: "a condition for cancellation is a condition which, if fulfilled, stops the engagement and brings everything back to its original state, as if there had never been an engagement";

The third party as the nominee share buyer must accept the consequence that the sale and purchase of the nominee shares is based on a share sale and purchase agreement that has no legal force because it has been canceled or canceled by law, the third party buying the shares can file for compensation. Regarding compensation, it is regulated in Article 61 of the UUPT Law stipulating that as a shareholder the right to file a lawsuit against the Company to the district court if it is harmed due to the Company's actions which are considered unfair and without reasonable reasons as a result of the resolutions of the GMS, Directors and / or the Board of Commissioners. The lawsuit is submitted to the district court whose jurisdiction covers the domicile of the Company. From this regulation, it is clearly stipulated that the heirs who are the legal owners of shares can claim compensation for losses that arise, due to the actions of the company.

Regarding to the Article 33 paragraph (1) of Law Number 25 Year 2007 interest to clear Investment that the share’s ownership in which to borrow another’s name is not approved, and it covers both domestic and foreign investors. By means of the above case, the regulations regarding the prohibition of buying and selling of nominee share have been administered, thus it becomes decisive to review to whether the sale and purchase of shares does not offend suited laws even the impact of law becomes very detrimental to third parties due to both the sale and purchase of shares is from buying and selling of shares and borrowing names, hence, according to the

Article 1320 of the Civil Code, particularly the legal requirements for the agreement to get into a contravention of the objective conditions which cause the invalidated to law, the agreement, other than that in Article 33 paragraph (2) also states that the internal agreement that causes the shares to be borrowed of name is repeal. The basis for the sale and purchase of shares achieved to shares in the name of Johansyah Van Empel is the nominee shares, thus that with the enactment of the investment law it becomes straightforward that the sale and purchase of shares for the borrowed shares can be argued to revoke for law.

V. CONCLUSION

1. The sale and purchase agreement of nominee shares is respecting to the nominee agreement which is prepared by the beneficiary and the nominee party will have the potential to be canceled or invalid, whether it is known by the nominee party or without the nominee's consent.
2. The position of the beneficiary is the right of the nominee shares that have been exchanged by the beneficiary to the third party who buys the shares. This is because the sale and purchase agreement that has been achieved has no legal force as a result of being canceled. Shares must be returned to the heirs if it is proven that there has been a abuse of the law in the sale and purchase of nominee shares accomplished.

ACKNOWLEDGEMENT

Author of this study would like to thank Prof. Hj. Tri Lisiani Prihartinah, S.H., M.A., Ph.D as his mentor, Dr. Kadar Pamuji, S.H., M.H. as the head of posgraduate program faculty of law at Universitas Jenderal Soedirman and Prof. Dr. Ade Maman Suherman, S.H., M.Sc who is the dean of faculty of law at Universitas Jenderal Soedirman. They have inspired the author to finish this paper and research. They also have provided an access and expertise to the research framework.

REFERENCES

[1] E. Borensztein, *How does foreign direct investment affect economic growth?*, ASEAN BRONEAU ECONOMIC RESEARCH 1050, Cambridge: Massachussets Avenue, 1995.

[2] A. R. Saliman, *Hukum Bisnis untuk Perusahaan: Teori dan Contoh Kasus*, Jakarta: Kencana, 2011.

[3] H. B. Budiono, *Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan Buku Ketiga*, Bandung: Citra Aditya Bakti, 2015.

[4] L. S. Wicaksono, "Kepastian Hukum Nominee Agreement Kepemilikan Saham Perseroan Terbatas", Jurnal Hukum Ius Quia Iustum, Vol. 1 No. 23, 53, 2016.

[5] D. Kairupan, "Regulation on Foreign Investment Restrictions and Nomine Practices in Indonesia, Mimbar Hukum, Vol. 25 No. 2, 313-326, 2013.

[6] M. D. Badrulzaman, *Aneka Hukum Bisnis*, Bandung: Alumni, 1994.

[7] H. Budiono, *Ajaran Umum hukum Perjanjian & Penerapannya di Bidang Kenotariatan*, Bandung: Citra Aditya Bakti, 2010.

[8] P. N. H. Simanjuntak, *Hukum Perdata Indonesia*, Jakarta: Kencana, 2015.

[9] R. Khairandy, *Itikad Baik dalam Kebebasan Berkontrak*, Jakarta: Pascasarjana UI, 2004.

[10] M. Syaifuddin, *Hukum Kontrak, Memahami Kontrak dalam Perspektif Filsafat, teori, Dokmatik dan praktek Hukum*, Bandung: Mandar Maju, 2012.

[11] Kevin Pahlevi, "Analisis Yuridis Terhadap Penggunaan Saham pinjam Nama (Nominee arrangement) ditinjau dari peraturan perundang-undangan di Indonesia", Diponegoro Law Jurnal, Vol. 6 No. 1, 13, 2017.

[12] Emma Y. Sinaga, "Keabsahan Akta Perjanjian Pengikatan Jual Beli (PPJB) Berkaitan Dengan Akta Kuasa Menjual Dalam Jual Beli Tanah (Studi Putusan Pengadilan Negeri Bandung Nomor 387/Pdt.G/2017/PN.Bdg)", Notary Indonesian, Vol. 1 No. 4, 3, 2019.