

**ANALISIS TERHADAP AKTA PENDIRIAN BADAN USAHA
MILIK DESA:
Studi Akta Pendirian Badan Usaha Milik Desa Taratak Bancah
Sejahtera**

OLEH:

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UNIVERSITAS ANDALAS

2018

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ABSTRAK

Badan Usaha Milik Desa adalah badan usaha yang seluruh atau sebagian besar modalnya dimiliki oleh Desa melalui penyertaan secara langsung yang berasal dari kekayaan Desa yang dipisahkan guna mengelola aset, jasa pelayanan, dan usaha lainnya untuk sebesar-besarnya kesejahteraan masyarakat Desa. Dalam Pasal 4 ayat (1) Peraturan Menteri Desa, Pembangunan Daerah Tertinggal dan Transmigrasi Nomor 4 tahun 2015 tentang Pendirian, Pengurusan dan Pengelolaan, dan Pembubaran Badan Usaha Milik Desa bahwa Desa dapat mendirikan BUM Desa berdasarkan Peraturan Desa tentang Pendirian BUM Desa. Pada Pasal 5 dinyatakan bahwa Pendirian BUM Desa sebagaimana dimaksud dalam Pasal 4 disepakati melalui Musyawarah Desa. Salah satu BUMDes di Kota Sawah Lunto yaitu BUMDes Taratak Bancah Sejahtera yang merupakan (1) satu dari (3) tiga BUMDes yang pertama kali berdiri di tahun 2016 selain pendiriannya dengan Peraturan Desa juga dituangkan ke dalam akta notaris, yang mana didalam peraturan perundang-undangan tidak menjelaskan pendirian BUMDes dibuat dalam bentuk akta Notaril. Berdasarkan hal tersebut, maka penulis merumuskan permasalahan yaitu 1. Bagaimana Subtansi Akta Pendirian Badan Usaha Milik Desa Taratak Bancah Sejahtera? 2. Bagaimana Tanggung Jawab Notaris Dalam Pembuatan Akta Pendirian Badan Usaha Milik Desa?. Metode penelitian dalam penelitian ini adalah yuridis normatif, Berdasarkan hasil penelitian 1) Dalam penjelasan Pasal 87 ayat (1) PP Nomor 43 tahun 2014, dinyatakan secara tegas bahwa BUMDes secara spesifik tidak dapat disamakan dengan badan hukum seperti perseroan terbatas, cv atau koperasi. Sehingga BUMDes bukan badan usaha, tapi sama fungsinya sama dengan BUMN, BUMD, yaitu mengelola badan usaha-badan usaha yang didirikannya. Akta Pendirian Badan Usaha Milik Desa Taratak Bancah Sejahtera memuat Anggaran Dasar Dan Anggaran Rumah Tangga Badan Usaha Milik Desa Taratak Bancah Sejahtera. 2) Notaris tidak berwenang membuat akta pendirian BUMDes, namun berwenang membuat unit usaha berbadan hukum BUMDes. Namun, kewenangan notaris dalam membuat akta pendirian BUMDes Taratak Bancah Sejahtera berdasarkan Pasal 15 ayat (1) UUJN. Tanggung Jawab Notaris berupa tanggung jawab secara perdata, pidana dan berdasarkan kode etik.

Kata kunci: Akta Pendirian, Badan Usaha Milik Desa, Badan Usaha Milik Desa Taratak Bancah

THE ANALYSIS OF THE ESTABLISHMENT DEED OF THE VILLAGE ENTERPRISE:

Study Of The Establishment Deed Of The Village Enterprise Taratak Bancah Sejahtera

ABSTRACT

Village enterprise is an enterprise which whole or few part of its capital owned by village, with a direct participation that originated from the wealth of village which being separated in purpose of asset managements, services and many other industries, purely for the sake of villager's prosperity. In the Article 4 subsection (1), Ordinance of Ministry of Village, Undeveloped Area Development and Transmigrasi (migration act from overpopulated area to less populated area), number 4, year 2015, regarding development, establishment and management, and breaking up the Village Enterprise, stated that Village can establish a Village Enterprise regarding the Regulation of Establishment of Village Enterprise. In the article 5 stated that the establishment of Village Enterprise as referred to article 4 is agreed through village conference. One of Village Enterprise in Sawahlunto named "Taratak Bancah Sejahtera" which is one (1) of the first three (3) Village Enterprises that Established back in 2016, not only the establishment carved on Village Ordinance, but it is also carved on notarial deed, which is in all legislation, there is no regulation that stated the establishment of Village Enterprise require notarial deed. Regarding all of that matters, the writer concludes problems which are, 1. How is the substantive explanation of the Taratak Bancah Sejahtera establishment deeds? 2. How the responsibilities of Notary in creating the establishment deeds of Village Enterprise? The methods to complete this project were normative-juridic According to the result of the project, 1) in the explanation of article 87 section (1) government ordinances number 43 year 2014, it was strictly stated that Village Enterprise specifically can't be compared to anything like the regular share based company, limited partnership company, or a cooperative economic enterprises. So, Village Enterprise isn't really an enterprise but it was a kind of things similar with state-owned enterprises. But in this case, Village Enterprise accommodates the enterprises that it's built. The Taratak Bancah deeds of Establishment contains constitutional rules of Taratak Bancah Sejahtera enterprise. The legal impact of the deeds of Establishment of Taratak Bancah Sejahtera causes the parties involved in this scenario aren't bonded legally, causes the obscureness of the deeds authenticity so the deeds doesn't have the power to prove anything legally completely, and can be nullified for the sake of law by the judge. 2. Notary doesn't have the authority to create the deeds of Village Enterprise establishment. But, they are privileged to create the unit of company that based on Village Enterprise. Meanwhile, the authority of notary in the making of the establishment deeds of Taratak Bancah Village Enterprise, according to the article 15 section (1) UUJN, the responsibilities of the notary is the responsibility in criminals, privates, and code of ethics.