



Roles and Responsibilities of Notary Under Transformation Business Institution from Commanditaire Vennootschap (CV) Become a Legal Entity Limited Liability Company (PT) (Study in Mataram City)

Anita Fauziah¹; Muhammad Sood²; Lalu Wira Pria Suhartana²

¹ Graduate Program in Notary, Faculty of Law, Mataram University, Indonesia

² Lecturer at Graduate Program in Notary, Faculty of Law, Mataram University, Indonesia

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Abstract

This study aims to analyze the roles and responsibilities of a notary in the change of a CV business entity to a PT legal entity and the legal consequences of changing the CV business entity to a PT. This research is focused on Normative-Empirical research, using a statutory approach, a conceptual approach and a sociological approach. The results of this study, the role of the notary in changing the CV business entity to become a PT legal entity is to settle debt which is then used as a reference to determine the initial capital in PT. Make an announcement in the newspaper that the CV will be upgraded to a PT, the Notary submits an application to obtain a Ministerial decision regarding the legalization of a legal entity electronically and the Notary's responsibility in changing the CV business entity to a PT legal entity can be classified on the responsibility based on errors because the Notary is responsible for the process change from start to finish. Legal consequences that occur with changes. First, the change in status from a CV to a legal entity of PT. Second, the minimum paid-up capital. Third, unlimited responsibility. Fourth, if the CV in charge of managing the company and is personally responsible is a complementary partner. In the PT GMS, the Board of Directors and the Board of Commissioners. Fifth, related to ongoing engagements must still be completed by CV or PT and no transfer of engagement is carried out.

Keywords: *Notary; Transformation; Business Institution; Legal Institution*

Introduction

In the last decade, doing business has become one of the human efforts to make ends meet. Business is a form of activity or activity that has the aim of obtaining direct and continuous profits. Setting up a company is the first step to building a successful and growing business. Companies are business entities that carry out activities in the economic sector which are carried out continuously, openly with the aim of making a profit. In addition, companies are a source of state revenue, through various types of taxes as well as a vehicle for channeling workers. In other words, the company is a source of income for the community as well as a vehicle for investment, both domestic and foreign, in whatever form or form.

Clearly the definition of this company is found in Article 1 of Law No. 3 of 1982 concerning Compulsory Registration of Companies, which states, a company is any form of business entity that carries out any type of business that is permanent and is continuously being established, working, and domiciled in the territory of the country of Indonesia with the aim of gaining profit / profit.

According to the status of the owner, companies can be divided into private companies and state companies, whereas when viewed from their legal form, companies can be divided into companies with legal status and non-legal companies. Private companies are companies whose capital is wholly owned by the private sector and there is no government interference, consisting of national private companies, foreign private companies, and joint private companies (joint ventures) while state companies are companies whose capital is wholly or partly owned by the Indonesian state. (Saliman & SH, 2016) There are three forms of joint business (two or more people) that are not classified as legal entities, namely a civil partnership / corporation, a corporation, a limited partnership (CV: *commanditaire vennootschap*). (Pugung, 2013)

The existence of a limited partnership (hereinafter referred to as CV) in business traffic has been recognized by the public, especially the entrepreneur community, as a form of business entity. The basis for regulating CV in the KUHD is not specifically regulated as a firm association and a civil partnership (*Maatschap*), but some legal experts argue that for CV it can be applied to articles concerning firm partnerships and civil partnerships. CV provisions are contained in Articles 19, 20, 21, and Article 32 of the Indonesian Criminal Code. The provisions of Article 19 to Article 21 of the KUHD which regulate the Firm if studied further, it is clear that CV is a firm with a special form. Its specialty lies in the existence of limited allies that do not exist in the Firm. Firma only has active allies called firmants, while in CV, apart from active allies, there are also limited allies or sleeping partners.

Limited partnership (CV) is one form of business that is not a legal entity. According to Article 19 of the KUHD, it is stated that a limited partnership (CV) is an alliance to run a company formed between one person or several allies who are directly responsible for all (solider responsibility) on one party, and one person. or more as a money lender to another party (Kurniawan, 2014) Limited allies have two kinds of allies, namely complementary allies, namely allies who actively participate in managing the alliance and limited allies, namely passive allies, not participating in managing the alliance. (Asyhadie, 2005)

Some of the advantages of CV compared to PT are that its establishment is not too complicated, it can be made an authentic deed with a notary deed or with a deed under hand. Notary deed as a means of proof that makes CV strong when it deals with third parties. If previously the registration of CV / Firm / Civil Alliance was carried out through the Court, dated August 1, 2018, Permenkumham No. 17 of 2018 concerning the Registration of Limited Partnership, Firma Guild and Civil Partnership, which requires registration to be done through the Business Entity Administration System (SABU) at the Directorate of General Legal Administration (AHU), while PT's establishment is complicated and must make an authentic deed, must be registered, legalized and approved, registered and announced. The form of CV business entity has also won public trust and is more flexible in its activities, namely limited responsibility to limited partners or passive allies and complementary allies or active allies who have unlimited responsibility. In this case, many small and medium entrepreneurs, especially family companies, choose this form. In addition, CV's organizational structure is not too complicated compared to PT, where the PT organs have commissioners, shareholders, and members of the board of directors, while CV is only limited partner and complementary ally. Profits earned by CV are only subject to one-time tax, that is, to business entities only and the distribution of profits or profits given to limited partners is no longer subject to tax (Article 4 paragraph 3 letter 1 of Law No.17 of 2000 regarding Income Tax) while PT gets two tax charges, namely on the business entity and dividends to its shareholders and the capital required to establish a CV and run a CV is not determined, it can be large or small so that many

small and medium business people choose this form while PT requires funds that are large enough to establish and run their business so that many large entrepreneurs choose the form of PT.

Some of the weaknesses of the CV business form are if a limited partner becomes an active partner, then the responsibility will become a personal responsibility in accordance with Article 21 of the Commercial Code. The legal status of a CV business entity is not a legal entity, so there are not many entrepreneurs who carry out large business activities, as we know that to work on large projects, a business entity whose status is a legal entity, namely PT and CV, cannot accumulate capital by way of collecting capital from its shareholders, in contrast to PT which can accumulate capital by collecting capital from its shareholders. Other advantages of a PT legal entity are the responsibility of the shareholders, a clear division of management and supervision structures, a more professional image and the ease of obtaining credit facilities from banking institutions.

To be called a Limited Liability Company, a business entity must have characteristics, among others, it must have its own assets, there are shareholders as suppliers of capital whose responsibilities do not exceed the value of the shares they take (paid up capital) and there must be an organized management for represent the company in carrying out its activities in legal traffic, both outside and in court and are not personally responsible for the engagements made by the limited liability company. This means that a business entity called a limited liability company must make itself a legal entity, as an independent legal subject capable of supporting its rights and obligations as is the case with a person, who has separate assets separate from the assets of its founders, shareholders and administrators. (Budiarto, 2002) In the next discussion regarding legal entities in our legal association, we will discuss the requirements (elements) to determine the existence of a position as a legal entity including having separate assets, having certain objectives, having their own interests, and having a regular organization.(Rido, 2004)

In the event that the CV business entity changes to become a PT legal entity, it will cause many problems due to previous legal actions, so it is necessary to pay attention to the role of the notary and the extent of the notary's responsibility in these changes and how the legal consequences of changing the status of CV to PT, where the deed is this change in status is carried out by a notary. Another obstacle is the absence of provisions governing the change in the status of a CV business entity to a PT legal entity which means that there is a norm vacuum. Based on the background of the problem and the research background above, it is necessary to carry out research to solve normative and empirical legal problems with the title "The Role and Responsibilities of Notaries in Changing CV Business Entities to PT Legal Entities (Study in Mataram City)."

Methodology

The research used in the preparation of this thesis is empirical normative legal research. In conducting research, the approach method used is the statutory approach (statute approach), conceptual approach (conceptual approach), sociological approach (sociological approach). To obtain information and data that will be accurate, related and relevant to the problem and the resolution of this writing. The research location chosen was Mataram City, West Nusa Tenggara Province. In this study the primary data obtained through field research were reviewed for completeness and clarity, then written down systematically. Secondary data from library research are selected and arranged systematically to perform data analysis. Primary data and secondary data that have been compiled systematically then carried out normative qualitative analysis to produce descriptive qualitative data. In this study, deductive thinking is used, which is a way of thinking that starts from the notion that something that applies to the whole event or group / type also applies to each element in the group / type event, this is done by applying theories in its general form, conclusions are drawn from specific facts. (Achmad & Mukti Fajar, 2015)

Results and Discussion

Role and Notary Responsibility in Changing the Business Agency of Cv to a Pt Legal Agency

A. The Role of Notaries in Changing CV Business Entities to PT

The role of the notary in changing CV's business entity to become a PT legal entity is first of all, making debt settlement to detail the final balance of CV's assets by a public accountant which is then used as a reference to determine the initial capital in PT. After the liquidation process is complete, the Notary makes an announcement in 2 (two) different newspapers stating that the company that was previously CV to become a PT will be made, then the Notary as the official authorized to check the name on the PT name that the tappers want through the Agency Administration System Law (SABH) to the Minister of Law and Human Rights. If the desired name has been approved, what is done next is that the parties on the deed must go to a notary to state their intention. After that, the notary checks the formal requirements of the parties whether it is in accordance with the deed requirements in general, then a PT Establishment Deed is made which contains the matters as regulated in the Company Law, then the Notary submits an application to obtain a Ministerial decision regarding the legal entity legalization electronically. With the approval of the Minister, the company gets its status as a legal entity and the personal responsibility of the founder shifts to the responsibility of the company as a legal subject (bearer of rights and obligations).

The position of a notary as a functionary (position) in society is still respected. A notary is usually considered an official where someone can get reliable advice. Everything that is written and determined (constituency) is correct, this is because the notary is a strong document maker in a legal process. (Kie, 2011) So it requires intelligence, thoroughness and caution in the Notary Public in the process of making authentic deeds so that there are no mistakes that could potentially lead to disputes in the future. In carrying out the duties and positions of a Notary, apart from submitting and obeying the UUJN and the Notary's Code of Ethics, of course, must pay attention to several principles in the implementation of the duties and positions of the Notary.

The principle is needed as a basis or guideline in carrying out the duties and positions of a notary public so that in providing services in the field of law to actors or people in need it can be carried out properly and correctly and in accordance with applicable regulations Principles relating to the duties and positions of a notary in making authentic deeds are divided into two principles, which are formal in nature or procedures and principles that are material in nature. Principles that are formal in nature concern principles relating to procedures that must be fulfilled in every decision or decision making authentic deeds or principles relating to the procedures for carrying out the duties of a notary public, which includes principles relating to the preparation process and the decision making process, and principles relating to consideration and composition of decisions. The principles in carrying out the duties and positions of this Notary include: (Darus, 2017)

1) Accountability of Notary Administration

The administrative responsibility of a Notary can be seen from Law Number 30 of 2004 concerning the Position of Notary Public as amended by Law Number 2 of 2014 which is very closely related to the duties and work of the Notary. The administrative responsibility of a Notary will arise when the obligations of a Notary are not carried out properly. Determine the existence of a Notary's administrative accountability, namely that there must be an act of a Notary that can be punished for his actions that have violated the elements that are expressly regulated in the UUJN.

Regarding administrative sanctions for Notaries who make mistakes, it can be seen in the provisions of Article 85 of Law Number 30 of 2004 concerning the Position of Notary Public as amended by Law Number 2 of 2014 stated that Notaries may be subject to sanctions in the form of:

- 1) Written warning;
- 2) Temporary suspension;
- 3) Dismissal with respect; or
- 4) Disrespectful dismissal.

The sanctions mentioned above are sanctions that can be imposed by the Notary Supervisory Council and are carried out in stages according to the form of violations committed by the Notary. Since the presence of the Indonesian Notary Institute (INI), supervision of Notaries has always been carried out by judicial institutions and the government, the goal is that Notaries, when carrying out their duties, fulfill all the requirements related to the implementation of the duties of a Notary Public for the security and interests of the community. Article 67 paragraph (1) UUJN stipulates that the Minister for supervising a Notary is carried out by the Minister and in the implementation of this supervision the Minister forms a Supervisory Council (Article 67) paragraph (2) UUJN. Article 67 paragraph (3) UUJN stipulates that the Supervisory Council shall consist of 9 (nine) members, consisting of 3 (three) government elements.

2) Notary Public Accountability

The Civil Code regulates civil liability. This accountability arises from the law (as an act against the law) and from agreements, as well as the KUHPedata in other countries in the legal system which arises from acts against the law according to the Civil Code. (Darus, 2017)

Civil liability is closely related to acts against the law and compensation for actions that have been done by someone. If the notary commits an act against the law and causes harm to the action taken, the party who feels aggrieved by the notary's action can be sued in a civil case to the District Court or the Religious Court. A notary public in a civil suit is often used or positioned as a defendant or co-defendant or not the main defendant by other parties, who feel that the legal actions listed in the deed are categorized as legal actions or legal actions of a Notary or Notary together with other parties also listed in the deed.

The UUJN strictly regulates the civil liability of a Notary as stipulated in Article 84 of the UUJN which states that violations committed by a Notary which result in an underhanded deed or a deed being null and void can be a reason for the party who suffers a loss to demand compensation and interest to a notary.

Article 84 UUJN stipulates that there are 2 (two) types of civil sanctions, if the Notary commits an act of violation of certain articles and also sanctions of the same type are scattered in other articles, namely the Notary Deed which has the power of proof as an underhanded deed. and the Notary Deed becomes null and void. As a result of such a notary deed, it can be a reason for the party who suffers a loss to demand reimbursement of expenses, compensation and interest from the notary.

Article 1365 of the Civil Code regulates actions against the law, which states that every act violates the law which brings harm to another person, obliging the person who due to his wrongdoing to issue said loss, to compensate for the loss The elements contained in Article 1365 of the Civil Code regarding Acts

against the Law are the existence of an act, the act is against the law, there is an error on the part of the perpetrator, there is a loss to the victim and the existence of a clausal relationship between the act and the loss. It is also emphasized in Article 1366 of the Civil Code that everyone is responsible, not only for losses caused by their actions, but also for losses caused by their negligence or carelessness. And in Article 1367, it is stated that a person is not only responsible for the losses caused by his own actions, but also for the losses caused by the actions of the people who are dependent on him or due to goods under his control.

3) Notary's Criminal Accountability

To take action against an act that has a criminal element, it must be based on a provision contained in the criminal law which justifies the act and the imposition of sanctions. A person who has committed a criminal act is not necessarily convicted, because before determining the accused to be convicted, two things must first be determined, namely whether the defendant's act is a criminal act or not and whether the defendant's act can be accounted for or not.

Determining the existence of a criminal act is based on the principle of legality, namely the principle that determines that no act is prohibited and is punishable by punishment if it is not determined in advance in legislation, while determining the existence of criminal liability is based on the principle of error. Another term for the principle of error is the principle of not being punished if there is no mistake.

The UUJN and the Notary's Code of Ethics stipulate that when a Notary in carrying out his duties and position is proven to have committed a violation, the Notary can be subject to sanctions in the form of civil and administrative sanctions but does not regulate any criminal sanctions against the Notary. So that if it is proven to have committed a criminal violation, a Notary will be subject to criminal sanctions contained in the Criminal Code.

In a rule of law, it is determined that anyone who violates the law will be subject to criminal, civil and administrative sanctions. Sanctions are actions or punishments to force people to keep an agreement or obey a statutory provision. Criminal sanctions will be imposed if the Notary in carrying out his / her duties has fulfilled certain elements of a criminal offense based on the Criminal Code (KUHP).

The responsibility of a notary in changing the CV business entity to a PT legal entity is inseparable from the notary's role in the process of changing the CV Business Entity to a PT Legal Entity and the ratification of the establishment of the Limited Liability Company itself. If the parties concerned expressly state that they will submit the management of the change in company status from start to finish to the Notary Public, the Notary is obliged to be responsible for the change process as long as the parties have met the applicable requirements. The notary must complete the deed desired by the parties until completion, from the CV debt settlement stage, the announcement in the newspaper that the CV will be upgraded to a PT, at least in 2 (two) different newspapers, the stage of making the deed of PT establishment, stage PT registration through the Legal Entity Administration System (SABH) on AHU Online until it is authorized by the Minister of Law and Human Rights which states the status of the company which was previously a business entity has changed to a legal entity. In principle, there are two types of legal responsibility, namely, first responsibility based on fault (liability based on fault), namely the responsibility imposed on legal subjects or perpetrators who commit acts against the law or criminal acts due to an error or negligence (negligence or negligence). . Negligence is a condition in which a legal subject or perpetrator is careless, inadvertent, does not heed his obligations or forgets to carry out his obligations. Second, absolute responsibility (strict liability), namely responsibility whose actions cause consequences that are considered detrimental by lawmakers and there is an external relationship between their actions and their consequences. In this case the responsibilities of a notary can be classified into

liability based on fault, because the notary is responsible for the process of changing the CV business entity to a legal entity PT from beginning to end. So that if there is an error or negligence that occurs in the procedure for change, establishment, and legalization, the Notary must be responsible.

Meanwhile, if categorized in its field, the responsibilities of a Notary can be classified under administrative responsibilities. The administrative responsibility of a Notary will arise when the obligations of a Notary are not carried out properly. So it can be concluded, in this case, the form of Notary's responsibility in changing the CV business entity into a PT legal entity is administrative responsibility because the Notary is supposed to discipline himself in carrying out his duties, obligations, powers and responsibilities as a Notary as specified in the Law on Notary Position. Notaries who have violated the law may be subject to administrative sanctions in stages by the Notary Supervisory Council such as written warning, temporary dismissal, honorific dismissal or disrespectful dismissal in accordance with the form of violation committed by the Notary.

Legal Due to the Change of Business Agencies Cv to the Legal Agency of Pt

A. Differences in the characteristics of CV and legal entities of PT

In starting a business there are many considerations in choosing a suitable form of business. Although there are many forms of business entities to choose from, not all of them can suit the business you are running. The two most frequently chosen forms of business entity are CV business entities and PT. Different characteristics are usually used by business people in determining which form of business entity to choose as a forum for carrying out their business activities, the differences in the characteristics of a CV business entity and a PT legal entity include:

1. Definition and Legal Basis

Commanditaire Venootchaap, which is commonly abbreviated as (CV) or Partnership for Commanders, is a form of business entity that is most widely used for Small and Medium Enterprises (UKM), where the provisions regarding CV are regulated in Articles 16 to 35 of the Indonesian Commercial Code (KUHD). Article 1618 to Article 1652 of the Civil Code, and Articles 1233 to Article 1456 of the Civil Code. However, over time, the government issued Regulation of the Minister of Law and Human Rights Number 17 of 2018 concerning the Establishment of Limited Partnerships, Firm Fellowships, and Civil Associations which further regulate the procedures for establishing CVs, in Article 1 paragraph (1) it states:

"Limited partnership (Commanditaire Venootschaap), hereinafter referred to as CV, is an alliance established by one or more limited allies with one or more complementary allies, to carry out business continuously."

Limited Liability Company or PT is regulated based on Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). According to Article 1 paragraph (1) Company Law:

"Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital partnership, established based on an agreement, conducting business activities with an authorized capital which is entirely divided into shares and fulfills the requirements stipulated in this Law and its implementing regulations."

2. Form of Company

Currently in Indonesia, apart from cooperatives, there are at least three other forms of companies that can be chosen by the public as a “vehicle” to make money, namely: (1) sole proprietorship (2) limited liability company, and (3) a partnership company either in the form of a general or special partnership. (Dewi, 2011)

Forms of companies that are in great demand by business actors are alliance companies consisting of a civil partnership (*maatschap*), an alliance with a firm (*venootschap onder firma*) and a limited partnership (*commanditaire vennootschap*) or abbreviated as CV and a limited liability company form. CV is a business entity and is not a legal entity where the business risk to Third Parties is fully borne by the Complementary Allies (Active Allies) as the management, while the Komanditer Allies (Passive Allies) are only responsible for the limited capital deposited into the Alliance. Limited Liability Company is a legal entity, Limited Liability Company as a legal entity, this means that the Limited Liability Company is a legal subject, where the Limited Liability Company is an entity that can be burdened with rights and obligations just like humans in general. Legal entity means a person who is deliberately created by law. As a legal entity, a Limited Liability Company has its own assets separate from the assets of its management. This business entity is formed based on law, has a separate existence from its owners and can do business within certain limits and can bind itself and carry out legal actions like an individual and can have wealth or debt. Legal entities as legal subjects have rights and obligations as humans, can sue and can be sued and have their own assets.

The main element of a legal entity is what is called "separate pratimony", which is to have its own assets separate from the shareholders as owners. The second characteristic of a legal entity is the limited responsibility of the shareholders as company owners and managers of the company. (Rajagukguk, 2011)

After obtaining approval by the Minister of Law and Human Rights, it is the status of the Company to become a legal entity. Since the Limited Liability Company has the status of a legal entity, the law treats the Limited Liability Company as an independent person who can take responsibility for the actions of the limited liability company. In Article 7 paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies, it is stipulated that the Company obtains legal entity status on the date of the issuance of a Ministerial Decree regarding the legalization of the Company's legal entity.

The provisions of this article are the legal basis for the start of the status of a limited liability company. The ratification of this deed of establishment is not only as an administrative control or a form of government interference with the business world, but also in the context of the government's general duties to maintain business order and order and prevent matters that are contrary to public interest and morals.

The further consequences of PT as a legal entity are as follows: (Dirdjosisworo, 1997)

- a) PT can have assets or property in its name;
- b) The owner has no interest in the assets of the PT;
- c) The owner is not responsible for the debts of the PT;
- d) The owner cannot be sued directly by the creditor in terms of the liability incurred by the company.

As soon as the limited liability company is authorized and has the status of a legal entity, the limited liability company must hold the first General Meeting of Shareholders (GMS). This first GMS aims to: (Gunawan, 2008)

- 1) Accept all agreements made by the founder or other people assigned by the founders with third parties;
- 2) Take over all rights and obligations arising from the agreement made by the founder or other person assigned by the founder, even though the agreement is not made on behalf of the company;
- 3) Confirm in writing all legal acts committed on behalf of the company.

3. Composition of the Management

The forms of business entities in Indonesia are forms that adopt the existing business forms in the Netherlands. One such form of business entity is the Commanditaire Venootschap or CV. In the CV business entity, there are two partners, namely limited partners and complementary allies with citizenship status as Indonesian Citizens (WNI). The difference between the two is that limited partnership allies are required to hand over money, objects or labor to the company as agreed and are entitled to receive benefits from the company. The responsibility of limited partners is limited to the amount of income that has been willing to pay, while complementary partners have the right to invest in the company, are in charge of managing the company and are personally responsible for the whole.

In the Indonesian Commercial Code Article 20 paragraph (2) it is stated that this Company may not take any management action or work in the said company, even if it is based on power of attorney. In this regard, what is meant by this pesero is a pesero or limited partnership. It can be concluded that limited partnership allies may not take any management action or work within the company, even though they are authorized. The purpose of this article is to protect the creditors of the company so that creditors are not confused about which one is a complementary ally who is fully responsible for personal assets, and which one is only liable for a limited amount of no more than their share in the company.

It can be seen in the Commercial Law Book, Article 21 states that limited partnership who violate the provisions of the first paragraph or the second paragraph of another article, are jointly and severally responsible for all debts and corporate engagements. In this case, the consequence is that the passive or limited allies will lose their limited immunity from responsibility. Passive allies can be held personally responsible for all company obligations. In other words, he becomes responsible just like an active ally or a complementary ally.

If the CV is only divided into 2 (two) types, namely limited allies and complementary allies. In PT, there are 3 (three) separate organs that have their respective roles. Article 1 paragraph (2) of the Limited Liability Company Law explains that the company's organs are the general meeting of shareholders, directors and commissioners.

Shareholders in the company do not have any power. They are not allowed to interfere in the management of the company. Shareholders have certain powers over the company if the shareholders meet in a forum called the GMS. Article 75 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies, imposes limits on the authority of the GMS, namely that the GMS has the authority not granted to the Board of Directors or the Board of Commissioners, within the limits specified in this Law and / or the articles of association.

- 1) Directors

The Board of Directors is the management of the company. The Board of Directors is authorized to carry out the management of the company for the interests of the company to the extent that it is in accordance with the aims and objectives of the company both inside and outside the court. As with the limited liability of limited liability company shareholders, this limitation of responsibility also applies to members of the board of directors, although it is not explicitly stated in the articles of the Limited Liability Company Law. This can be seen from Article 97 paragraph (3) of Company Law which states that each member of the board of directors is fully responsible personally for the loss of the Company if the person concerned is guilty or negligent in carrying out his duties in accordance with the provisions referred to in paragraph (2).

It can be interpreted that if members of the board of directors are innocent and have not neglected to carry out their duties, the directors are not fully responsible personally. As long as the board of directors carries out their duties and responsibilities with full responsibility, members of the board of directors still have limited responsibility, which is the main characteristic of a limited liability company.

2) Board of Commissioners.

The third organ in the company is the board of commissioners. According to Article 1 paragraph (6) of Law Number 40 of 2007 concerning Limited Liability Companies, the Board of Commissioners is a company organ that is tasked with conducting general and / or specific supervision in accordance with the articles of association and providing advice to the Board of Directors.

In carrying out its duties, the Board of Commissioners may form various committees that assist its functions to run more effectively, namely:

- a. Audit Committee which ensures the implementation of the effectiveness of internal control, implementation of duties of external auditors and internal auditors;
- b. The Nomination Committee which compiles selection criteria and nomination procedures for members of the Board of Commissioners and Directors and other executives, designs a rating system and provides recommendations on the number of Directors and Commissioners;
- c. The Remuneration Committee which establishes the direction in the preparation of the remuneration system and the provision of benefits as well as recommendations on the assessment of the remuneration system, provision of shares, the pension system and compensation in cases of employee reduction; and
- d. The Insurance and Business Risk Committee which conducts periodic assessments and provides recommendations on business risks and the type and amount of insurance (Adrian Sutedi, 2015)

The scope of duties and powers and responsibilities of the members of the Commissioners in general have been regulated in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), in particular Article 108 to Article 121.

4. Establishment Procedure

Basically, in establishing a company, both CV and PT, so that it can stand legally and be legally recognized, its establishment must be made in the form of a notary deed and in Indonesian. In general, the process of establishing a company essentially consists of four stages, namely:

- a) Notary deed stage;

- b) The stage of approval by the competent authority;
- c) Registration stage in the company register; and
- d) The announcement stage in the State Gazette of the Republic of Indonesia (Harris et al., 2010)

To establish a company must meet the requirements and procedures determined by the Company Law. In the Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies, article 7 Paragraph (1) states that the Company is established by two or more persons with a Notary deed made in Indonesian. And in Article 7 Paragraph (4) it is affirmed that the Company has obtained the status of a legal entity on the date of the issuance of the Ministerial Decree regarding the legalization of the company's legal entity. Then in Article 7 Paragraph (5) it is stated that after the Company has obtained the status of a legal entity and the shareholder becomes less than 2 (two) people, within a period of not more than 6 (six) months from that condition the shareholder concerned is obliged to transfer some of its shares. to other people or the Company issues new shares to other people.

5. Capital

CV or Commanditaire Venootschap or also known as the Limited Partnership is a form of business entity that can be founded with limited capital. To set up a CV, the founder of the CV does not have a minimum capital limit. It's just that the founders are required to open an account in the name of a CV that has been established to deposit a certain amount of paid-up capital. The amount of CV capital is not regulated in law so that the amount is based on the agreement of the founders. (Sudiarto, 2019)

As described above, the purpose of establishing a CV is to jointly seek profit or profit and share these profits by submitting inbrenng (income) from each partner in the form of money, goods or energy and crafts. It's just that for limited allies (passive allies) the inbrenng form can only be in the form of money and goods. If in the agreement the inbrenng is in the form of goods, then the partner has an obligation to ensure that the goods made inbrenng are not defective and will not be prosecuted by other parties, an obligation that is borne like the obligation of a seller whereas if the ally wants to put inbrenng in the form of money then he is required to submit to CV's cash on condition that interest will be charged if he does not hand over the money immediately after the CV is formed. In CV unlike PT, allies can submit their labor or craft as a form of inbrenng concerned in the CV. Energy and craft can be in the form of work with hands or mind. If he is negligent in this obligation, he must compensate the association as a result of his negligence, even if certain things are considered default, so that it can cause the termination of a CV. (Dewi, 2011)

In the old regulation (KUHD), as stated above, the founders had to participate in the company's capital at least 20% at the time the company was founded and 10% of the company's capital had to be paid up before it was approved. Meanwhile, the minimum amount of the company's authorized capital is not determined. Likewise, the time limit for full payment must be made by the founders who took the shares is also not determined, but all of that is determined in the articles of association. (Budiarto, 2002)

According to Article 32 paragraph (1) in CHAPTER III of the Law on Limited Liability Companies, it states that the authorized capital of the Company is at least IDR 50,000,000 (fifty million rupiah). Thus, it is strictly determined that a limited liability company must have a minimum authorized capital of IDR 50,000,000 (fifty million rupiah). Of the said capital, at least 25% (twenty five percent) must have been issued and fully paid, as stated in Article 33 paragraph (1) of the Limited Liability Company Law, at least 25% (twenty five percent) of the authorized capital as referred to. in Article 32 must be placed and fully paid.

So it can be concluded, the Company Law requires that after the ratification, the limited liability company can run its business with the authorized capital that has been fully paid by its founders.

6. Responsibilities

In CV, there are two allies, namely allies who are jointly responsible (active allies / complementary allies) and allies who lend money (passive allies / limited allies). An active ally has unlimited or personal liability, which means that a third party can claim the partnership's obligations not only from the partnership's assets but also from the partner's personal assets, while a passive partner has meaningful limited liability. that the passive partner or limited partner is not personally responsible for the engagement made on behalf of the partnership or for the losses suffered by the partnership.

Based on this, it can be concluded that the limited partnership is not personally responsible for debts or losses of the partnership both from contracts and transactions made by the partnership. The limited partnership risk is not more than the money that has been paid or committed to the partnership, in other words the limited partnership does not bear the risk of up to their personal assets and is free from all claims or lawsuits from third parties who feel aggrieved by the partnership.

In the form of a Limited Liability Company which is a legal subject with a legal entity, in principle, the shareholders (investors / owners) of a limited liability company cannot be held personally accountable for more than the value of the shares that they include in the company. However, it is based on the principle of piercing the corporate veil if the relevant shareholder, either directly or indirectly in bad faith, is proven to be using the company for personal gain or is involved in illegal acts committed by the company or using the company's assets (personally) resulting in wealth. company to third parties, shareholders can be held accountable personally and up to personal assets. Likewise, if a limited liability company does not or has not met the requirements as a legal entity, each shareholder who is usually the founder also is responsible up to his personal assets. (Sofiarini, 2011)

B. Factors that Cause Changes in CV to Become Legal Entities of PT

There are several factors or reasons why an entrepreneur chooses a Limited Liability Company to run a business compared to other forms of companies such as Civil Partnerships, Cooperatives, Firma, CV, namely: (Nadapdap, 2012)

1. Solely to take advantage of the characteristic of limited liability;
2. Or with the intention of making a corporate transformation easier when needed;
3. Or for fiscal reasons.

Based on the research that has been done, the results of the causal factors or legal reasons for the change of a CV business entity to a PT are due to job requirements that require it to be in the form of a legal entity, limited liability of the company, ease of participating in tenders, more guaranteed company continuity due to an increase. turnover and managed in an orderly manner because it has the function of each organ.

C. Legal Consequences of Change of CV Business Entities to Become Legal Entities of PT

In everyday social life, events that lead to consequences regulated by law often occur. Social events that have consequences regulated by law are called legal events or legal events. Satjipto Rahardjo argued, this legal event is an incident in society that moves a certain legal rule so that the provisions contained in it are then realized (Raharjo & Hukum, 2014) As stated by R. Soeroso, a legal event is a legal event (*rechtsfeit*), an ordinary incident in everyday life which consequently is regulated by law. Actions and behavior of legal subjects that bring legal consequences because the law has binding power for the legal subject or because the legal subject is bound by legal force. Events in society whose consequences are regulated by law, not all events have legal consequences, so not all events are legal events. (Raharjo & Hukum, 2014) A legal event is divided into 2 (two), namely the act of a legal subject and not an act of a legal subject. Legal subjects are holders of rights and obligations according to law. In everyday life, the legal subjects in the Indonesian legal system are humans (*natuurlijk persoon*) and legal entities (*rechts persoon*).

Paul Scolten said that humans are people (*persoon*) in law who are entitled to subjective rights in objective law as well as being given legal authority. (Widiyono, 2008) Meyers, a civil law administrator, said that a legal entity is a reality, concrete, real, even though it cannot be touched, does not mean imaginary, a *realiteit juridische*. As for the nature of a legal entity, although they are both supporters of rights and obligations, as a form of law created by humans, among others, they share a name, nationality, domicile, organs, objectives, efforts and can be punished and others. (Widiyono, 2008)

Legal actions are all actions which, if carried out, cause legal consequences. There are also 2 (two) kinds of legal actions, namely, one-sided legal action (*eenzijdig*) and two-sided legal action (*twee zijdig*). A one-sided legal action is any action that has legal consequences (*rechtagevlog*) and legal consequences arising from the will of one legal subject, namely only one party who has committed the act. A two-sided legal action is any action whose legal consequence is caused by the will of two legal subjects, namely two or more parties. Every act that is two-sided is an agreement (*overeenkomst*). (Ali, 2014)

In conducting a business, entrepreneurs need a place to act, do legal actions and make transactions. The choice of type of business entity or legal entity that will be used as a business facility depends on the needs of the founders. The most popular business facilities used are limited liability companies (PT). This is because PT has characteristics, characteristics and privileges that other forms of business entity do not have. Following are the characteristics, characteristics or privileges of PT: (Sofiarini, 2011)

- 1) Is a form of partnership with legal status;
- 2) Is a collection of capital / shares;
- 3) Owning assets that are separate from the wealth of the perseroes;
- 4) Shareholders have limited responsibility;
- 5) There is a separation of functions between shareholders and management or directors;
- 6) Having commissioners who function as supervisors;
- 7) The highest power is at the GMS (General Meeting of Shareholders).

The choice of a limited liability company as a form of company compared to other forms is due to two reasons. First, a limited liability company is a capital association, a capital association is an association for businesses to raise a lot of capital, due to the limited capital of each business and large capital is needed so that it needs to be collected from a large number of people. Second, a limited liability company is an independent legal entity. Some of the above features as well as various businessman personal reasons cause business people to change their CV business entity to become a PT. With this change, there were several legal consequences that occurred.

Legal consequences that occur with the change of CV business entity to become a legal entity of PT. First, the change in status from a CV to a legal entity of PT. Since the company changed its status to a legal entity, the law treats the limited liability company as an independent person who can be personally responsible for the actions of the limited liability company. This means that legal entities have rights and obligations and can sue and be prosecuted in court, because they are legal subjects like humans.

Rudhi Prasetya stated, according to the law, when an act is done for and on behalf of the PT, it is seen as the act is done by the PT itself and not by the people who carry out the action concerned. So as a consequence all consequences and debts arising from the act must be borne by the PT itself, that is, with the assets of the PT concerned without the slightest being able to ask for responsibility and / or demand to be paid from the personal assets of the person who committed the act even though the person who committed the act was the shareholder of the PT. . This situation is a result of the view that PT is an independent legal entity whose existence is seen as independent from individual humans. In many literature it is written that the element of limited accountability is what makes people often choose the form of PT. By using the PT construction one can minimize the risk of possible losses. On the basis of this motivation, in some cases, people deliberately choose 1 (one) type of business to choose a separate PT. In fact, sometimes 1 (one) type of business is held in 2 (two) or 3 (three) separate PT. Circumstances like this can bring benefit. Even though in essence, economically, the PT-PT is an economic unit, but because juridically, each legal entity is considered an independent legal subject, then a claim against a PT cannot be sued against the personal assets of its people, both its management and shareholders or to other PT-PTs, even though they are in one group or holding (an arrangement between a number of companies, each of which is a legal subject that is independent from one another, but in fact all of them constitute one economic unit). (Prasetya, 2011)

Second, if previously when they were in the form of a business entity the founder did not have a minimum paid-up capital, it is different when they have switched to a legal entity that a limited liability company must have a minimum authorized capital of IDR 50,000,000 (fifty million rupiah). Third, in a business entity there are unlimited liability. Third, unlimited or personal liability means that creditors can demand partnership obligations not only from the assets of the partnership but also from the personal assets of allies but after a change in company status, shareholders or investors in a limited liability company cannot be held personally accountable for more than the share value. which he entered in the company. However, if the shareholder concerned, either directly or indirectly with bad intentions, is proven to have used the company for personal gain or was involved in illegal acts committed by the company or used the company's assets for personal gain which resulted in the company's assets being insufficient to pay off debts or the company's obligations to third parties, shareholders can be held personally accountable to personal assets.

Fourth, if previously in the CV business entity in charge of managing the company and being personally responsible for the whole, it is a complementary partner. In a PT legal entity there are 3 (three) separate organs that have their respective roles. The first organ is the General Meeting of Shareholders or abbreviated as GMS, is a corporate organ whose position is as the organ that holds the highest power in the company. The second is the Board of Directors or also known as the management of the company who carries out all company activities and represents the company both inside and outside the court.

Third, the Board of Commissioners, or commonly referred to as the Commissioner, has the duty to oversee the policies of the directors in managing the company and provide advice to the directors. It can be concluded, that the agreements that have been previously made are still resolved along with the change in the status of the company from CV to PT and no transfer of the engagement was carried out.

Conclusion

From the previous description, conclusions can be drawn based on the problems studied, namely:

1. The role of the notary in changing the CV business entity to become a PT legal entity is to settle debt which is then used as a reference to determine the initial capital in PT. Then an announcement was made in the newspaper that the CV would be upgraded to a PT in at least 2 (two) different newspapers, then checking the name on behalf of the desired PT through the Legal Entity Administration System (SABH) to the Minister of Law and Human Rights. After being approved, the Notary checks the formal terms of the parties whether it is in accordance with the deed requirements in general, then the Deed of Establishment of PT. then the Notary submits a request to obtain a Ministerial decision regarding the legalization of a legal entity electronically and the Notary's responsibility in changing the CV business entity to a PT legal entity can be classified on liability based on fault, because the Notary is responsible for the change process from beginning to end. . So that if there is an error or negligence that occurs in the procedure for change, establishment, and legalization, the Notary must be responsible. Meanwhile, if categorized in its field, the responsibility of a Notary can be classified as administrative responsibility because a Notary is supposed to discipline himself in carrying out his duties, obligations, powers and responsibilities as a Notary as stipulated in the Law on Notary Position.
2. Legal consequences that occur with changes. First, the change in status from a CV to a legal entity of PT. Second, the minimum paid-up capital. Third, unlimited responsibility. Fourth, the CV who is in charge of managing the company and is personally responsible is a complementary partner. In PT, there are 3 (three) separate organs, namely the GMS, the Board of Directors and the Board of Commissioners. Fifth, related to ongoing engagements that must still be completed by the CV or PT and no transfer of engagement is carried out.

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