

(Research/Review) Article

Principle of Good Faith in Holding the Third General Meeting of Shareholders for Minority Shareholders

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Abstract: The purpose of this study is to examine the principle of good faith, which is a fundamental aspect of corporate governance, which ensures fair treatment for all shareholders, including minority shareholders. This study examines the application of good faith in the third General Meeting of Shareholders (GMS) in relation to the protection of minority shareholders, focusing on Decision Number 389/PDT.P/2019/PN.CKR. This study aims to analyze the court's reasons behind the issuance of the *Niet Ontvankelijke Verklaard* decision at the third GMS and to evaluate the legal protection mechanisms available to minority shareholders. This study uses a normative juridical approach, by analyzing legal norms and judicial precedents related to corporate governance and shareholder rights. The research findings reveal that minority shareholders often face legal uncertainty and procedural disadvantages in GMS decisions, especially when the principle of good faith is not upheld. The court's rejection of the third GMS application highlights the need for a more comprehensive legal framework to protect the interests of minority shareholders and ensure a fair corporate decision-making process. This study contributes to the corporate governance discourse by emphasizing the importance of procedural fairness and legal certainty in shareholder meetings.

Keywords: Corporate Governance, Good Faith, General Meeting of Shareholders, Minority Shareholders, Legal Protection

1. Introduction

Journal of Future Artificial Intelligence and Technologies accepts research paper submissions that contain at least 4000 to 8000 words or around 8 to 20 pages for research articles and a maximum of 30 pages for review articles. The introduction must be written briefly, concisely, and clearly. The introduction must contain an explanation of (1) the Research object, (2) Methods that have been used previously, (3) the Weaknesses and strengths of each method or may briefly allude to related work and/or hypotheses, (4) Research problems (5) Proposed solutions and/or approaches (6) List of Contributions (6) Rest of paper. The introduction section must be scientific and rich in citations. Use "maintext_FAITH" style for this paragraph.

2. Preliminaries or Related Work or Literature Review

This section must contain a state-of-the-art explanation. It can be explained in several ways. First, you can discuss several related papers, both about objects, methods, and their results. From there, you can explain and emphasize gaps or differences between your research and previous research. The second way is to combine theory with related literature and explain each theory in one sub-chapter.

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3. Background

The principle of good faith is crucial in corporate governance, ensuring that all shareholders, including minority shareholders, are treated equitably during decision-making. The General Meeting of Shareholders (GMS) is the highest decision-making body in a company, giving shareholders the opportunity to exercise their rights in shaping company policies. However, minority shareholders often struggle to assert their rights, especially when the majority shareholders dominate decisions. This study investigates the application of good faith in the third GMS, focusing on the protection of minority shareholders in light of Decree Number 389/PDT.P/2019/PN.CKR.

Previous research has explored various aspects of corporate governance and minority shareholder protection. Studies by Layung Purnomo (2016) and Dwi Rahmawati et al. (2021) discuss the legal frameworks available to protect minority shareholders and the limitations in Indonesian corporate law. However, these studies primarily focus on general legal protection without examining the specific implications of the third GMS and the role of good faith in corporate decision-making. Additionally, research by Ane Nor Cahya Ilmiah and Sumriyah (2021) addresses shareholder losses due to GMS decisions being rejected by the court but does not delve into the procedural and substantive aspects of a breach of good faith. This gap underscores the need for further research on the legal and practical challenges minority shareholders face in the third GMS.

This study aims to fill this gap by analyzing the legal basis for the *Niet Ontvankelijke Verklaard* decision in the PT Sinyong Indonesia case. By examining the court's reasoning, procedural compliance, and the role of good faith, the study offers a deeper understanding of the legal protection of minority shareholders in the third GMS. The study's novelty lies in its focus on procedural fairness and legal certainty in corporate decision-making, contributing to the ongoing discourse on corporate governance in Indonesia.

This research employs a normative legal approach, utilizing legal norms and judicial precedents to assess the impact of the third GMS on minority shareholders. Unlike previous studies that emphasize legal theory, this study combines legal case analysis to provide practical insights into the enforcement of the good faith principle. The findings are expected to offer valuable recommendations for corporate governance reforms, enhancing minority shareholder protection in Indonesia.

The case in Determination Number 389/PDT.P/2019/PN.CKR arose from an internal dispute at PT. Sinyong Indonesia, a company based in Bekasi, West Java, between two major shareholders: Lee Chun Un, the applicant, and Kim Jae Hong, the respondent. The applicant, also the Director of PT. Sinyong Indonesia, filed a request with the Cikarang District Court for a third GMS to address the dismissal of commissioners and an increase in authorized and paid-in capital. The primary reason for this request was that the respondent had failed to attend previous GMS meetings, which hindered the company's ability to make crucial decisions. This request was filed as a legal measure to ensure that the company's decision-making process could proceed according to applicable provisions despite disagreements between major shareholders.

Based on this background, the research questions guiding this study are: What legal considerations led to the *Niet Ontvankelijke Verklaard* decision in the third GMS in Determination Number 389/PDT.P/2019/PN.CKR? and How can legal protection be enhanced to safeguard the rights of minority shareholders in corporate decision-making? These questions will frame the analysis and discussion of this study.

4. Research Methodology

This research adopts a normative juridical approach, where law is conceptualized as what is written in laws and regulations (law in books) or as a rule or norm that serves as a standard for human behavior deemed appropriate. Normative legal research is based on primary and secondary legal materials, focusing on the norms contained in national laws and regulations. The legal materials used in this study are obtained through legal material searches or literature reviews, focusing on primary legal materials such as national regulations and the 1945 Constitution, and secondary legal materials such as textbooks, foreign journals, expert opinions, legal cases, and symposiums.

The legal material analysis technique employed in this study is interpretation, which involves applying the legal method to address legal issues at hand. This approach allows for a comprehensive understanding of the legal protections for minority shareholders, particularly within the context of good faith in corporate governance.

5. Discussion

The principle of good faith is very important in corporate governance, especially in ensuring that minority shareholders are not disadvantaged in the decision-making process. In the context of the General Meeting of Shareholders (GMS), the principle of good faith mandates that all shareholders, regardless of their ownership percentage, must be given an equal opportunity to participate in decision-making. However, in practice, minority shareholders often face challenges due to the dominance of majority shareholders. This study examines the application of the principle of good faith in the third GMS, especially in Determination Number 389/PDT.P/2019/PN.CKR, and examines the legal implications of the *Niet Ontvankelijke Verklaard* court decision on the protection of minority shareholders.

Good Faith in Corporate Decision Making

Good faith in corporate governance refers to the duty of all parties involved, including shareholders, to act honestly, fairly, and in the best interests of the company. This concept is particularly relevant in shareholder meetings, where decisions can have a significant impact on the direction of the company and the rights of shareholders. The Indonesian Company Law (Law No. 40 of 2007 on Limited Liability Companies) emphasizes the importance of fairness and transparency in corporate decision-making. However, as seen in the case of PT Sinyong Indonesia, the application of these principles can be inconsistent, leading to legal disputes. The third GMS is held when the first and second GMS fail to reach a quorum, thus becoming an important mechanism in decision-making. However, the process can be manipulated, especially when certain shareholders deliberately do not attend the previous meeting to delay the decision. In the case of PT Sinyong Indonesia, the third GMS was not accepted because there was a discrepancy between the *posita* and *petitum*, which led the court to decide it as *Niet Ontvankelijke Verklaard*. This decision reflects the legal complexities surrounding the interpretation of good faith in corporate governance.

Analysis of Determination Number 389/PDT.P/2019/PN.CKR

The PT Sinyong Indonesia case provides an important example of how procedural violations can affect shareholder rights and corporate decision-making. Key legal issues in the case include:

- a. Failure to meet procedural requirements: Minority shareholders are of the opinion that the third GMS was not held properly, citing bad faith from the majority shareholders who were not present at the GMS. The validity of the GMS was questioned due to procedural weaknesses, especially in the notification process and agenda setting.
- b. Indication of bad faith: Majority shareholders are indicated to have deliberately structured the GMS process to exclude minority shareholders from participating in important decisions, such as changes in company leadership and financial restructuring.
- c. Legal reasons for the Determination of *Niet Ontvankelijke Verklaard*: The court finally decided that the third GMS did not comply with the legal requirements, so the decision was invalid. The decision shows that although the GMS is necessary for corporate decision-making, it must still follow strict procedural standards.

This case illustrates the fine balance between enforcing procedural law and ensuring substantive fairness. While the court's decision affirms the importance of procedural compliance, it also raises concerns about whether the decision adequately protects the rights of minority shareholders. If procedural technicalities are given priority over substantive fairness, there is a risk that corporate decision-making may be hampered rather than facilitated, especially when there is bad faith from majority shareholders who are absent from the AGM, ultimately undermining the rights of minority shareholders.

Comparative Analysis with Previous Research

Several previous studies have examined the legal protections available to minority shareholders and the challenges they face in corporate governance. However, this study complements the existing literature by focusing specifically on the third GMS and the implications of the *Niet Ontvankelijke Verklaard* Determination.

- a. Layung Purnomo (2016) discusses general legal protections for minority shareholders but does not address the specific procedural challenges of the third GMS.
- b. Ane Nor Cahya Ilmiah and Sumriyah (2021) highlighted shareholder losses due to rejected GMS decisions but did not analyze the role of good faith in these decisions.
- c. Dwi Rahmawati et al. (2021) explore the principles of corporate governance but do not focus on the legal implications of court decisions on GMS decisions.

- d. This study makes a unique contribution by integrating case law analysis and procedural compliance issues, offering a more comprehensive understanding of how minority shareholder rights can be better protected in corporate governance.

Implications for Corporate Governance in Indonesia

One of the most important aspects of this case is how legal interpretation affects corporate governance. Courts play an important role in upholding the principle of good faith, but their decisions sometimes prioritize procedural compliance over substantive fairness.

- a. Legal uncertainty: The determination of the *Niet Ontvankelijk Verklaard* has created uncertainty regarding the implementation of the third GMS, as it shows that procedural weaknesses can completely invalidate the shareholders' meeting, even if the meeting is necessary for corporate decision-making.
- b. Potential abuse of procedural law: There is a risk that majority shareholders may exploit procedural technicalities to suppress the rights of minority shareholders. If courts continue to emphasize procedural compliance without considering the broader implications for fairness and corporate governance, minority shareholders may find it increasingly difficult to protect their interests.
- c. The need for judicial consistency: Inconsistencies in judicial decisions on shareholder disputes can create confusion for companies and investors. A more standardized approach to interpreting the good faith principle would provide greater legal certainty and ensure that corporate governance remains fair and transparent.

Legal Protection for Minority Shareholders

Based on the findings of this study, several steps that can be taken to provide protection for minority shareholders are:

- a. Improving regulatory enforcement: Authorities such as the Financial Services Authority (OJK) should implement stricter guidelines to ensure that shareholder meetings comply with the principles of transparency and good faith.
- b. Reforming the judicial approach: Courts should adopt a more balanced approach that takes into account both procedural compliance and substantive fairness, preventing the use of technicalities as a tool of shareholder oppression.
- c. Encourage corporate self-regulation: Companies should establish internal governance mechanisms that prioritize fairness, such as an independent oversight committee to review the procedures of the General Meeting of Shareholders.
- d. Promoting alternative dispute resolution (ADR): Mediation and arbitration can offer a more efficient means of resolving shareholder disputes, reducing reliance on litigation and ensuring that conflicts are resolved in a manner that upholds the principle of good faith.

The findings of this study highlight broader implications for corporate law in Indonesia. As corporate governance continues to evolve, ensuring a fair balance between the rights of majority and minority shareholders will be critical to maintaining investor confidence. The case of PT Sinyong Indonesia shows that procedural compliance alone is not enough to protect shareholder interests—substantive fairness must also be considered. Strengthening legal protections, upholding the principle of good faith, and ensuring judicial consistency will be critical to creating a more transparent and fair corporate environment.

This discussion highlights that the principle of good faith is crucial in ensuring fair corporate governance, particularly in the GMS process. The analysis of Determination Number 389/PDT.P/2019/PN.CKR reveals the procedural and legal complexities faced by minority shareholders in protecting their rights. Compared with previous studies, this study provides a more in-depth examination of court decisions and procedural fairness, which contributes to the broader discourse on corporate governance in Indonesia. Future reforms should focus on strengthening legal protection and ensuring that courts consistently apply the principle of good faith in corporate decision-making.

6. Conclusion

This study highlights the important role of the principle of good faith in ensuring fairness and transparency in corporate decision-making, particularly in the third General Meeting of Shareholders (GMS). By analyzing Decision Number 389/PDT.P/2019/PN.CKR, this study reveals how procedural inconsistencies and bad faith actions can undermine the rights of minority shareholders. The *Niet Ontvankelijk Verklaard* determination demonstrates the legal complexities surrounding the third GMS, emphasizing the need for stricter procedural compliance and better enforcement of corporate governance principles.

These findings contribute to the existing discourse on corporate governance by providing a new perspective on legal protection for minority shareholders in Indonesia. Unlike previous studies, this study specifically examines the impact of court rulings on shareholder rights and corporate transparency. Strengthening the regulatory framework and ensuring court consistency in interpreting the principle of good faith are important steps to improve corporate governance. These findings reaffirm the importance of procedural fairness and legal certainty in corporate decision-making, which ultimately contribute to a fairer business environment.

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