RLJ Ratio Legis Journal
ISSN 2830-4624
published by
Master of Law, Faculty of Law
Universitas Islam Sultan Agung

Juridical Analysis of General Meeting of Shareholders in the Case of a Limited Liability Company Owned by Two Shareholders with a Balanced Percentage

Ferry Ramadhan[*)]

[*)] Faculty of Law, Universitas Islam Sultan Agung Semarang, Indonesia, E-mail: ramadhanfry@gmail.com

Abstract. *In article 7 paragraph 1 of the Act No. 40 of 2007, that a limited liability company can be established by 2 (two) people only, there are no further rules regarding share ownership, thus allowing the ownership of the same number of shares in a limited liability company which only has 2 shareholders. This results in the absence of a majority shareholder in the company, even though in making decisions at a GMS, if decisions cannot be made by deliberation, decisions will be made that are accepted by the majority. The aim of this research is to study and analyze implementation of a General Meeting of Shareholders in the Case of a Limited Liability Company Owned by Two Shareholders with a Balanced Percentage and Implementation of a General Meeting of Shareholders in the Case of a Limited Liability Company Owned by Two Shareholders with a Balanced Percentage*. *The method used in this study is the Juridical Sociological method, the specifications in this study are analytical descriptive, the data used are primary data and secondary data, using data collection by interviews and literature studies, qualitative data analysis, problems are analyzed by theory, law enforcement and legal certainty. The results of this study showif the shareholders are balanced in a company owned by two people with different interests, it is certain that the GMS will not be held because it does not meet the quorum and if up to the second summons the GMS has not fulfilled the quorum the shareholders can requestto the chairman of the District Court whose jurisdiction includes the domicile of the Company to determine a quorum for the third GMS andThe court can dissolve the Company because there are only 2 (two) shareholders, because if there are only 2 (two) shareholders and there is a deadlock in decision making. The court can dissolve the company due to the reason that it is impossible for the company to continue. So that under these circumstances the company cannot carry out its business activities.*

Keywords: *Company; Liability; Shares.*

1. Introduction

A limited liability company is an organization, an organization as a collection of several people established to achieve a goal agreed upon by its members, then an organ capable of representing all its members is formed to run the business which

ISSN : 2830-4624

is called the board.[1]The existence of an organ is one of the elements that is quite important in a Limited Liability Company business entity as an organization, this is clarified in Article 1 point (2) of the Company UUPT, which states:

> *"The organ of the company is the general meeting of shareholders, directors and the board of commissioners"*

Shares are important for shareholders in a company. Shares are stated in numbers and numbers written on the share certificate issued by the company. The amount written on each share certificate is called the nominal value of the shares. Shareholders are given proof of share ownership for the shares they own. Proof of share ownership in the form of a share certificate, which is submitted to the shareholders and stipulated in the articles of association.[2]

Shareholders are given proof of share ownership for the shares they own. Proof of share ownership is usually in the form of a certificate issued by the company. In addition, shareholders are also given the right to attend and vote at GMS, receive payment of dividends and the remaining assets resulting from liquidation, and exercise other rights under the Company Law. Shareholders, either individually or represented based on a power of attorney, have the right to attend the GMS and use their voting rights in accordance with the number of shares they own. However, this does not apply to shareholders of shares without voting rights.

It is not uncommon to find that in a company there is a share distribution with the same number of compositions. The division is not just numbers. However, it has an impact on each shareholder position in the company. Example of a company consisting of two people with a share distribution of 50% : 50%. The amount of share ownership between the two is the same, no one is smaller and no one is bigger. The two also share the roles of directors and commissioners of the company. The position of the two is equal and there is no majority shareholder. Such a company will find it difficult to reach a consensus at the GMS when differences of opinion arise because there are no shareholders who have greater control over the company.[3]

All felt that they had a big share in the company's capital. A GMS may be held to discuss the transfer of shares between the two. However, if both of them insist on maintaining their share ownership, it will be difficult to reach a common ground. The GMS will also experience a deadlock. Consensus is a difficult goal to achieve. If the shareholders have different visions, there will be many conflicts in running the company. Therefore, before establishing a Limited Liability Company, such matters must be considered. And it would be better if there were more than two shareholders, even though in the Limited Liability Company Law the minimum establishment of a company is only two people. This is to minimize the potential

[1]Moenaf H. Regar, 2000, Board of Commissioners, Its Role as an Organ of the Company, Bumi Aksara, Medan, p. 31.

[2] IG Rai Widjaya, 2003, Corporate Law, Kesaint Blanc, Jakarta, p. 200.

[3] Munir Fuady, 2003. New Paradigm Limited Liability Company, PT Citra Aditya Bakti, Bandung, page 160

for deadlock in making decisions.[4]

The General Meeting of Shareholders (GMS) is the organ of the company to represent the interests of all shareholders in a limited liability company. The GMS is the highest organ of the company and has the power to determine the goals and direction of the company. The GMS has all the authority that is not given to the directors and commissioners of the company, this can be seen as stipulated in Article 1 number 4 of the Company Law which states: "The General Meeting of Shareholders, hereinafter referred to as the GMS, is a company organ that has authority that is not given to the directors or the board of commissioners within the limits specified in this law and/or the articles of association."

*Indirect investment*is a popular investment today. Namely investment by investing a certain amount of capital into the stock exchange on the stock exchange floor, whose investment management is managed by the company concerned. Which in practice will form two kinds of shareholders, namely majority shareholders and minority shareholders.[5]

This is where the problem started, in article 7 paragraph 1 of Act No.. 40 of 2007:

> *"The company was founded by 2 (two) people or more with a notarial deed drawn up in the Indonesian language"*

The above article states that a limited liability company can be established by 2 (two) people only, but there are no further provisions regarding share ownership, thus allowing the ownership of the same number of shares in a limited liability company which only has 2 shareholders. This results in the absence of majority shareholder and minority shareholder in the company, even though in making decisions in a General Meeting of Shareholders, where if a decision cannot be made by deliberation, a decision will be taken by a majority. Article 88 paragraph (1) Act No.. 40 of 2007 explains that;

> ”GMS to amend the articles of association can be held if in the meeting at least 2/3 (two-thirds) of the total shares with voting rights are present or represented at the GMS and decisions are valid if approved by at least 2/3 (two-thirds) of the the number of votes cast, unless the articles of association determine the attendance quorum and/or provisions regarding decision-making at a larger GMS”

The provisions above relate to the application of the super majority principle to important actions within the company, such as amendments to the articles of association. Because of that, supervision over the enactment of provisions like this at that time was very effective, namely by not passing the statutes that were contrary to the principles outlined above.

By super majority principle, what is meant is that at a general meeting of shareholders, new decisions can be taken when the votes in favor exceed a certain

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[4] Bagus Zuntoro Putro is in the address*https://smartlegal.id/pendirian-usaha/pendirian-pt/2020/03/09/this-potential-problems-your-pt-if-50-50-share-share-composition/* accessed on 12 August 2022 at 01.00 WIB.

[5]Ibid

number, for example more than 2/3 or ¾ of the valid votes. So a quorum or voting with an ordinary majority (more than half of the votes or more votes in favor) is not considered sufficient.

2. Research Methods

The approach used in this study is a Sociological Juridical Approach, namely an approach thatemphasizing research aimed at obtaining legal knowledge empirically by going directly to the object. The author conducted a descriptive analytical research aimed at deciphering the facts to obtain an overview of the existing problems, reviewing and reviewing legal facts to find out how the general meeting of shareholders is held in the event that a limited liability company is owned by two shareholders with a balanced percentage.

3. Results and Discussion

3.1. Implementation of the General Meeting of Shareholders in the Case of a Limited Liability Company Owned by Two Shareholders with a Balanced Percentage

Shares are important for shareholders in a company.Shares are stated in numbers and numbers written on the share certificate issued by the company. The amount written on each share certificate is called the nominal value of the shares. Shareholders are given proof of share ownership for the shares they own. Proof of share ownership in the form of a share certificate, which is submitted to the shareholders and stipulated in the articles of association.[6]

Each share gives its owner indivisible rights. For example, if Christine Setiono has one share, then the share cannot be divided into two or divided into two. Shareholders are not allowed to share rights to shares according to their own will. In the event that one share is owned by more than one person, the rights arising from these shares can only be exercised by appointing one person as joint representative. Distribution of rights to shares can only be done with the help of a company that can determine the fractional nominal value of shares in the articles of association.

Shares based on the law are seen as movable objects. Shares provide material rights to their owners that can be defended against everyone. Shareholders can do whatever they want, can sell, pledge, guarantee or transfer.

A limited liability company can issue several classifications of shares. Classification of shares is a group of shares which have the same characteristics with one another, and these characteristics distinguish it from shares which are a group of shares of different classifications. Each of the same classification gives the holder the same rights. If there is more than one classification of shares, then the articles of association determine one classification as "common shares".[7]The meaning is that the shares that provide voting rights to make a decision at the GMS regarding all matters relating to the management of the company, the right to receive

[6] IG Rai Widjaya, Corporate Law, Kesaint Blanc, Jakarta, 2003, p. 200.
[7] IG Rai Widjaya, Op. Cit., p. 200.

dividend distribution and the remaining assets in the liquidation process. As for the classification of shares according to Act No. 40 of 2007 concerning Limited Liability Companies (hereinafter abbreviated as PT Law) Article 53 paragraph (4), that is, in addition to the classification of shares above in the Articles of Association, one or more classifications of shares may be determined, namely:[8]

a) Shares with special, conditional, limited or no voting rights,
b) Shares which after a certain period of time can be withdrawn or exchanged with other classifications,
c) Shares that entitle their holders to receive dividends cumulatively; and/or
d) Shares that give rights to their holders to receive in advance from shareholders of other classifications the distribution of dividends and the remaining assets of the company in liquidation.

Shareholders are given proof of share ownership for the shares they own. Proof of share ownership is usually in the form of a certificate issued by the company. In addition, shareholders are also given the right to attend and vote at GMS, receive payment of dividends and the remaining assets resulting from liquidation, and exercise other rights under the Company Law. Shareholders, either individually or represented based on a power of attorney, have the right to attend the GMS and use their voting rights in accordance with the number of shares they own. However, this does not apply to shareholders of shares without voting rights.

It is not uncommon to find that in a company there is a share distribution with the same number of compositions. The division is not just numbers. However, it has an impact on each shareholder position in the company. Example of a company consisting of two people with a 50%:50% share split. The amount of share ownership between the two is the same, no one is smaller and no one is bigger. The two also share the roles of directors and commissioners of the company. The position of the two is equal and there is no majority shareholder. Such companies will find it difficult to reach a consensus onin the GMS when differences of opinion arise because there are no shareholders who have greater control over the company. All felt that they had a big share in the company's capital. A GMS may be held to discuss the transfer of shares between the two. However, if both of them insist on maintaining their share ownership, it will be difficult to reach a common ground. The GMS will also experience a deadlock.

Consensus is a difficult goal to achieve. If the shareholders have different visions, there will be many conflicts in running the company. Therefore, before establishing a Limited Liability Company, such matters must be considered. And it would be better if there were more than two shareholders, even though in the Limited Liability Company Law the minimum establishment of a company is only two people. This is to minimize the potential for deadlock in making decisions.

According to E. Adamson Hobel and Karl Llewellyn stated that legal certainty has

[8]Ibid

an important function for the integrity of society. These functions are:[9]

a) Establish relations between community members by determining which behavior is permitted and which is prohibited.
b) Making allocations of authority (autheority) and carefully determining parties who can legally be coerced while selecting appropriate and effective sanctions.
c) Disposition of disputed issues.
d) Adjusting relationship patterns to changing living conditions.

In the theory of legal certainty, it has goals that are oriented towards three (3) things, namely justice, benefit and legal compliance because for writing this thesis it is intended to achieve the three (3) legal objectives above by applying it to the implementation of the GMS which is owned by two shareholders with Balanced Percentage.

The Company Law regulates the quorum requirement for attendance and decision-making in holding a GMS. In relation to the GMS, amending the articles of association can be held if at least 2/3 (two thirds) of the total shares with voting rights are present or represented at the GMS and decisions are valid if approved by at least 2/3 (two thirds) of the shares. of the number of votes cast, unless the articles of association determine a quorum for attendance and/or provisions regarding decision-making at a larger GMS. In the event that the attendance quorum is not reached, a second GMS may be held. Furthermore, the second GMS as referred to earlier is valid and has the right to make decisions if in the meeting at least 3/5 (three fifths) of the total number of shares with voting rights are present or represented at the GMS and decisions are valid if approved by at least 2/3 (two thirds)) part of the number of votes cast, unless the articles of association determine the attendance quorum and/or provisions regarding decision-making at a larger GMS.

In these provisions, it can be seen that in fulfilling the 2/3 quorum and if it is not reached, then a second GMS must require a 3/5 quorum, both of which are more than 50%. The problem is if there are only two shareholders and both have the same share ownership, namely 50%, then automatically if one of the shareholders is not present then the GMS will not be held. Even though the limited liability company at that time needed a change and had to carry out a GMS.

However, it was hampered by not being able to hold the GMS due to an insufficient quorum. Not only Article 88 of the Company Law which regulates the quorum for amendments to the articles of association. In the PT Law there are other articles which also require that the quorum for the GMS is more than 50%. These other articles include:

[9]Soerjono Soekanto, 2003, Fundamentals of Sociology of Law, Radja Grafindo Persada, Jakarta, p. 74

However, in the provisions of other articles contained in the Company Law regarding GMS quorums and GMS decisions have something to do with Article 7 paragraph (1) which reads "The company was founded by 2 (two) or more people with a notarial deed drawn up in the Indonesian language". In this article, the minimum number of founders of a limited liability company is only two people. The two people will deposit their capital into the company, and this capital will be divided into shares and the shares are owned by the shareholders.

However, from the minimum number of two people there are no further rules regarding share ownership. The provisions regarding the obligation to establish a company of two people do not apply to, the first is a Persero whose shares are wholly owned by the state, in this case BUMN, then the second is a company that manages the stock exchange, clearing and guarantee institutions, depository and settlement institutions and other institutions.

Article 7 paragraph (2) of the Limited Liability Company Law states "Every founder of a company is obliged to take part in shares at the time the company was founded." The article only states that it is obligatory to take part in shares and does not specify the amounttaken from the two founders of the Company so as to enable the ownership of the same number of shares in a limited liability company which only has two shareholders. This results in the absence of majority shareholder and minority shareholder in the company, even though in making decisions at a General Meeting of Shareholders, where if a decision cannot be made by deliberation, a decision will be adopted which is accepted by the majority.

The GMS has powers that are not granted to the Directors or Commissioners within the limits specified in the law or the articles of association. In the GMS forum, shareholders have the right to obtain the widest possible information as long as it is related to the company's business activities from the directors or commissioners, which is related to the meeting agenda and does not conflict with the interests of the company. The GMS has no right to make decisions if the quorum requirements are not met. This means that the presence of shareholders or being represented at the GMS is a determining requirement for the GMS to be held and make decisions or not.

Balanced share ownership in a company indicates that there are no majority shareholders or minority shareholders, because there is no difference in the number of shares held between one shareholder and another. There are no majority and minority shareholders. This means that control of the company is in the hands of the two shareholders. It is they who have the right to appoint company managers and control the company and make important decisions for the company; including determining the salaries and facilities of the company's directors and board of commissioners and deciding how much profit may be distributed as dividends.

3.2. Implications of Holding a General Meeting of Shareholders in the Case of a Limited Liability Company Owned by Two Shareholders with a Balanced Percentage

Limited Liability Company is a legal entity whose capital consists of shares. These shares are owned by individuals or legal entities who are commonly called shareholders. However, the Limited Liability Company is a legal entity that is different and separate from the company's shareholders. Company shareholders. The nature of a limited liability company as a "legal entity" has consequences, including providing guarantees to the company's creditors for the company's assets, because the company's assets really belong to the company, and are the responsibility of the company for the company's debts. The company's assets cannot be withdrawn by the shareholders, and the company's assets cannot be used as collateral for the debt of the company's shareholders.[10]

Shares themselves are a concrete form of capital in the company. Shares are part of the shareholders in the company, which is stated by the numbers and numbers written on the share certificate issued by the company.[11]Shareholders are those who participate in PT capital by giving one or more shares. In Article 51 paragraph (1) of the Company Law, the rights of shareholders include:[12]

1. Receive dividends for the shares held.
2. Attend the General Meeting of Shareholders (GMS).
3. Vote at meetings.
4. Get paid back shares that have been paid in full.

Shareholders have material rights to the shares they own. As legal subjects, the shareholders have the rights and obligations arising from the shares. Shareholders have the right to defend their rights against everyone. The rights and obligations of the shareholders both towards the company and other shareholders are in an engagement relationship as regulated in the Law and the Company's Articles of Association. Ownership of shares as movable objects gives material rights to their holders which everyone can defend.

In accordance with Article 3 paragraph (2) of the Limited Liability Company Law, shareholders are responsible for their negligence and mistakes which result in the Company losing money, in this case bankruptcy. But in reality, the application of this article is not as easy as stated. In practice it is associated with Act No.. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (Bankruptcy Law), regarding proving the elements of shareholder negligence as well as proving the elements of bankruptcy itself often encounter difficulties. Not to mention there is no clear regulation on how the

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[10] Rachmadi Usman, Legal Dimensions of Limited Liability Companies, Alumni, Bandung, 2004, p. 148.

[11] Riska Fitriani, Derivative Lawsuit by Minority Shareholders in Limited Liability Companies, Journal of Riau Legal Sciences, edition 1, Vol. 2, 2011, p. 2.

[12]Ibid

accountability procedure is requested with the accountability of shareholders to personal assets.[13]

In a Limited Liability Company there are majority shareholders and minority shareholders. The majority shareholder owns the largest portion of the company's shares, usually above 50% of the shares. But do not rule out the number is less than 50% or 40%. For example, the number of other shareholders is not more than 40%, only 10% or 15%. Minority shareholders are the opposite of majority shareholders. Minority shareholders have the smallest share of the company's shares, for example, only owning 5% of the company's shares. Apart from the difference in the number of shares held between the majority and minority shareholders, there are also other differences. The majority shareholder has full control over the company. They are the ones who have the right to appoint company managers and control the company and make important decisions for the company, including determining the salaries and facilities of company officials and deciding how much profit can be distributed as dividends. On the other hand, minority shareholders do not have control over the company.[14]

In PT Kasih Bunda Mulia there are no majority shareholders or minority shareholders, because there are only 2 (two) shareholders and these shareholders have the same number of shares. Both of them have the power to determine the direction of company policy. If one of them does not agree in determining the direction of the company's policies, then the policy cannot be carried out by the directors or commissioners of the company.

Shareholders in a company can be categorized based on the composition of the number of shares owned. The category most often used to distinguish shareholders in a Limited Liability Company is based on the number of shares owned. Apart from the number of shareholdings, what differentiates the majority shareholders from minority shareholders is the ability to control the Company. Shareholders in composition have small or minority shareholdings, but are able to control the running of the company.[15]

Limited Liability Company Law regulates the provision of "one share one vote", unless otherwise provided in the Articles of Association of Limited Liability Companies (Article 84 paragraph (1) of the Limited Liability Company Law). However, because the shares owned by one shareholder and the other are different, then there are majority shareholders and minority shareholders. Each shareholder has the right to vote in accordance with the number of shares owned. The Limited Liability Company Law provides protection for shareholders entitled to vote in accordance with the number of shares owned in the company. The Limited Liability Company Law provides protection for minority

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[13]Ibid p. 204

[14] Dian Apriliani, Application of the Principle of Justice in Good Corporate Governance towards Fulfilling the Rights of Minority Shareholders, Legal Opinion, 1st edition, Vol. 3, 2015, p. 3

[15] Riska Fitriani Op. Cit., p. 3.

shareholders. In this case the minority shareholders still have a share in the company because of the one share one vote principle.[16]

The founders of the Limited Liability Company will become the shareholders in the company that was founded, and the shareholders as the determinants of the company's policy direction so that the company achieves the goals desired by the founders or shareholders. The founder of a limited liability company is a legal subject who individually binds himself to take legal actions to achieve the goal to be achieved, namely the establishment of a limited liability company. Because the founders of a limited liability company are at least 2 (two) people, a problem arises as to the obligations and responsibilities for legal actions committed by one founder against another. Until now there is no legal provision that explicitly regulates the nature of this connection. However, the nature of the legal relationship between the founders of a limited liability company can be understood from the goals of the founders.[17]

In the Company Law, it is stated in Article 7 paragraph (1): "The company was founded by 2 (two) people or more with a notarial deed drawn up in the Indonesian language." In this article, the minimum number of founders of a limited liability company is only two people, which of the two people will deposit their capital into the company, and this capital will become shares and be distributed to shareholders. However, from the minimum number of two people there are no further rules regarding share ownership. Article 7 paragraph (2) states "Each founder of the Company is obliged to take part in shares at the time the Company is established." The definition of founders according to law is people who take part intentionally to establish a company. Furthermore, these people in the framework of establishment.[18]

Article 7 paragraph (2) only states that it is mandatory to subscribe for shares and does not specify the amount to be taken from the two founders of the Company so as to enable the ownership of the same number of shares in a limited liability company which only has two shareholders. This results in the absence of majority shareholder and minority shareholder in the company, even though in making decisions at a General Meeting of Shareholders, where if a decision cannot be made by deliberation, a decision will be adopted which is accepted by the majority.

In the Company Law Article 1 point 1, are:

"Limited Liability Company, hereinafter referred to as the Company, is a legal entity which is a partnership of capital, established based on an agreement, conducting business activities with authorized capital which is entirely divided

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[16] Asmawati, Legal Protection for Minority Shareholders as a result of Merger Banks, Journal of Jambi Law, Issue 1, Vol. 2, 2014, p. 30.

[17] Tri Budiyono, Corporate Law, Juridical Review of Law no. 40 of 2007 concerning Limited Liability Companies, Publisher Griya Medika, Salatiga, 2011, p. 38.

[18] Muhammad Hatta Bj, Bambang Winarno, Imam Ismanu, Juridical Study of the Total Percentage of Share Ownership in Limited Liability Companies, Journal of Law Faculty Students, University of Brawijaya, Edition 1 Vol. 1, 2015, p. 12.

into shares and fulfills the requirements stipulated in this Law and its implementing regulations".

Thus, the elements of a Limited Liability Company are:

1. Limited Liability Company is a legal entity.
2. Shareholders' liability is limited.
3. Based on the agreement.
4. Doing business activities.
5. Capital is divided into shares.
6. The timeframe can be unlimited.

Based on the above understanding which states that a limited liability company is established based on an agreement, it means that the establishment of a company is carried out consensually and contractually based on Article 1313 of the Civil Code. The establishment is carried out by the founders upon agreement, whereby the founders bind themselves to one another to establish the Company.[19]

Article 7 paragraph (1) of the Company Law relating to the number of shareholders which allows only 2 (two) shareholders with the same number of shares in a limited liability company. So in this case problems will arise, such as difficulties in making decisions at the General Meeting of Shareholders. If in making a decision there is 1 (one) shareholder who disagrees with the other shareholders, then the decision cannot be implemented. Because there are only two shareholders. Then another problem regarding the GMS quorum which must be present at the GMS is more than 50% of the shareholders. Meanwhile, if there are only 2 (two) shareholders, the GMS cannot be held. The Company Law regulates the minimum number of attendees at a GMS.

The General Meeting of Shareholders as an organ of a limited liability company has different views between the classical view and the modern view as it is today, which is described by Rudhi Prasetya as follows:[20]

“In the past, people were still narrow-minded. People see that the existence of a company is nothing but for the sole benefit of shareholders. Therefore, in the classical view, they see the three organs as being in a position from top to bottom (intergeorgnet), that power culminates in the GMS, with the Board of Commissioners below it and the lowest is the Board of Directors, but that view has now been abandoned. According to the latest theory, the existence of a corporation is not solely for the benefit of shareholders.

Article 1 point 4 of the Limited Liability Company Law explains that "The General Meeting of Shareholders is a company organ that has authority that is not granted to the Directors or Board of Commissioners within the limits specified in this Law and/or the Articles of Association". However, the authority granted

[19] M. Yahya Harahap, Limited Liability Company Law, Sinar Graphic Publisher, Jakarta, 2009, p. 163.

[20] Rudhi Prasetya, Position Independent Limited Liability Company, Citra Aditya Bakti, Bandung, 1996, p. 40.

by the Law to the GMS does not mean that the GMS can carry out the duties and powers granted by the Law to the Directors and Commissioners. Based on the definition of GMS in Article 1 point 4 of the Limited Liability Company Law, several conclusions can be drawn, namely:[21]

1. This organ is a meeting. What must be observed is that the meeting forum differs from the individual shareholders. So, even if someone, for example, becomes the majority shareholder, individually they do not hold the (highest) power in the company. The highest authority only appears when a meeting is held and the meeting must meet certain formality requirements stipulated in the Company Law.
2. The authority or authority possessed by this meeting forum is the remaining authority based on the residual theory. This authority is basically born from the ownership status of the company which is in the hands of the shareholders. Shareholders are (part of) owners of the company. Theoretically, as owners, shareholders hold the right to take any action against the objects they own.
3. The authority in this meeting forum can be delegated to other organs, namely the Board of Directors and the Board of Commissioners. The freedom of delegated authority can be regulated in the Limited Liability Company Law and/or the Articles of Association of the Limited Liability Company or through a resolution of the GMS. The delegated authority is actually what is temporary and what is permanent. Permanent delegation of authority, for example the management of the company (in general) and the function of representation (representing the company both inside and outside the court). Meanwhile, temporary delegations can be revoked at any time.

In this case the General Meeting of Shareholders is the highest forum of the company, where the forum is held to determine the policy direction of the company, the company's merger, dissolution, and the company's annual meeting. Because 36 General Meeting of Shareholders is a company organ that has authority that is not given to the Board of Directors or the Board of Commissioners within the limits specified in this Law and/or the Articles of Association.

Article 88 paragraph (1) of the Company Law explains that: "A GMS to amend the articles of association can be held if at the meeting at least 2/3 (two-thirds) of the total number of shares with voting rights are present or represented at the GMS and the decision is valid. if approved by at least 2/3 (two-thirds) of the total votes cast, unless the articles of association determine the quorum for attendance and/or provisions regarding decision-making at a larger GMS."

Article 88 paragraph (2) Company Law "In the event that the attendance

[21] Tri Budiyono, Op. Cit., p. 148-149.

quorum as referred to in paragraph (1) is not reached, a second GMS may be held. Article 88 paragraph (3) of the Company Law "The second GMS as referred to in paragraph (2) is valid and has the right to make decisions if at least 3/5 (three fifths) of the total number of shares with voting rights attend or are represented at the GMS and decisions is valid if it is approved by at least 2/3 (two-thirds) of the total votes cast, unless the articles of association determine the quorum for attendance and/or provisions regarding decision-making at a larger GMS." The provisions above relate to the application of the principle of supermajority to important actions within the company, such as amendments to the articles of association.

By super majority principle, what is meant is that in a general meeting of shareholders, new decisions can be taken when the votes in favor exceed a certain number, for example more than 2/3 or 3/4 of the valid votes. So a quorum or voting with an ordinary majority (more than half of the votes or more votes in favor) is not considered sufficient.

The quota principle in the Criminal Code is actually also to protect minority shareholders. The quota system, which gives a certain share to the shareholders is contained in Article 54 paragraph (4) of the Criminal Code where if a limit on the number of votes is desired, in principle this matter is left to the company's articles of association, with the stipulation that a shareholder cannot issue more than six votes if the company's capital consists of 100 shares or more, and cannot cast more than three votes if the company's capital is less than 100 shares.[22]

However, the principle of limiting voting rights with a quota system was later declared null and void and replaced with a full one share one vote system by Act No.. 4 of 1971 concerning Amendments and Additions to the Provisions of the Commercial Code (hereinafter abbreviated as KUHD) Article 54 (Stbl. 1847:23). This is adhered to by Act No. 1 of 1995 which was later amended by the PT Law. With the implementation of the one share one vote system, each shareholder has the right to one vote, unless the articles of association determine otherwise.

Shareholders have voting rights in accordance with the number of shares owned, so it can be concluded that this Limited Liability Company Law does not limit the power of a large number of shareholders in obtaining the voting rights obtained. As stated in Article 54 of the Criminal Code.

In addition, regarding the GMS quorum in the three paragraphs, it is stated that a GMS can be held if 2/3 (two-thirds) of the total number of shares with voting rights are present. If it is not achieved, then a second GMS must be required which requires a quorum of 3/5, both of which are also more than 50%. In this way, those present at the GMS must have more than 50% of the voting rights of the shareholders. The articles of association determine otherwise, namely regarding the determination of the attendance quorum and/or provisions

[22] Muhammad Hatta Bj, Bambang Winarno, Imam Ismanu, Op. Cit., p. 5

regarding decision-making at a larger GMS. In this way, the articles of association may determine a different number of quorums in the GMS, but it must be more than what is determined by the Company Law.

Even though the limited liability company at that time needed a change and had to carry out a GMS. However, it was hampered by not being able to hold the GMS due to an insufficient quorum. In this case the Court can dissolve the Company because there are only 2 (two) shareholders, because if there are only 2 (two) shareholders and there is a deadlock in decision making either at the GMS or before the GMS in the absence of one of the parties due to the absence one of the parties, the GMS cannot be held. The court can dissolve the company due to the reason that it is impossible for the company to continue. If the two shareholders have different interests, the company cannot carry out these two different interests.

The interests of shareholders in a limited liability company often conflict with one another. Minority shareholders or minority shareholders are often only used as a complement in a company.[23]In the decision-making mechanism in the company, it is certain that these minority shareholders will always lose compared to the majority shareholders, because the pattern of decision-making is based on the large percentage of shares owned. This will certainly be a problem when the company only has 2 (two) shareholders and both have the same number of shares, so there are no majority shareholders and minority shareholders.

We see again in another article regarding GMS quorum, in Articles 86, 88, and 89. Article 86 paragraph (1) of the Company Law stipulates: "GMS can be held if in the GMS more than 1/2 (one half) of the total all shares with voting rights are present or represented, unless the law and/or articles of association determine a larger quorum."

Article 89 paragraph (1) of the Company Law states:

"GMS to approve Merger, Consolidation, Acquisition or Separation, submission of application for the Company to be declared bankrupt, extension of the term of establishment, and dissolution of the Company can take place if at least 3/4 (three quarters) of the total shares with voting rights are held at the meeting attend or be represented at the GMS and decisions are valid if approved by at least 3/4 (three quarters) of the total votes cast, unless the articles of association determine the attendance quorum and/or provisions regarding the requirements for making larger GMS decisions."

In fact, from the other articles regarding the GMS quorum, more than 50% of the voting rights present at the GMS and the Articles of Association also stipulate something else, namely regarding the determination of the attendance quorum and/or provisions regarding decision-making at a larger GMS. That way the articles of association may determine a different number of quorums in the GMS, but it

[23] Muhammad Hatta Bj, Bambang Winarno, Imam Ismanu, Op. Cit., p. 6.

must be more than what is determined by the Company Law. This is the same as Article 88 concerning changes to the company's articles of association.

4. Conclusion

Implementation of the General Meeting of Shareholders in the event that a Limited Liability Company is Owned by Two Shareholders with a Balanced Percentage ispursuant to Article 88 paragraph (1) of the Limited Liability Company Law explains that: "A GMS to amend the articles of association can be held if at the meeting at least 2/3 (two-thirds) of the total number of shares with voting rights are present or represented at the GMS and the decision is valid if approved by at least 2/3 (two-thirds) of the total votes cast, unless the articles of association determine the quorum for attendance and/or provisions regarding decision-making at a larger GMS." Article 88 paragraph (2) Company Law "In the event that the attendance quorum as referred to in paragraph (1) is not reached, a second GMS may be held. Article 88 paragraph (3) of the Company Law "The second GMS as referred to in paragraph (2) is valid and has the right to make decisions if inmeeting of at least 3/5 (three fifths) of the total number of shares with voting rights present or represented at the GMS and decisions are valid if approved by at least 2/3 (two thirds) of the total votes cast, unless the articles of association determine a quorum attendance and/or provisions regarding decision-making at a larger GMS." So that if the shareholders are balanced in a company owned by two people with different interests, it is certain that the GMS will not be held because it does not meet the quorum and if up to the second summons the GMS has not fulfilled the quorum the shareholders can requestto the chairman of the District Court whose jurisdiction includes the domicile of the Company to determine a quorum for the third GMS andImplications of holding a General Meeting of Shareholders in the event that a Limited Liability Company is Owned by Two Shareholders with a Balanced Percentage arewhen a limited liability company requires a change and must carry out a GMS. However, it was hampered by not being able to hold the GMS due to an insufficient quorum. In this case the Court can dissolve the Company because there are only 2 (two) shareholders, because if there are only 2 (two) shareholders and there is a deadlock in decision making either at the GMS or before the GMS in the absence of one of the parties due to the absence one of the parties, the GMS cannot be held. The court can dissolve the company due to the reason that it is impossible for the company to continue. If the two shareholders have different interests, the company cannot carry out these two different interests.In Article 146 paragraph 1 letter c of PT Act No.. 40/2007, it is stated that the District Court can dissolve the Company at the request of the shareholders, the Board of Directors or the Board of Commissioners on the grounds that it is impossible for the Company to continue. The method is through the process of applying for the dissolution of the company to the Chairperson of the District Court which can be submitted by Shareholders, Directors or Board of Commissioners on the grounds that it is impossible for the

Company to continue.

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