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Against The Law In Pollution of The Environment
(Study of Decision Number: 735/Pdt.G-Lh/2018/Pn.Jkt.Utr)

Nur Afwiyani, Marlia Sastro, Zainal Abidin

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Nur Afwiyani^{1*}, Marlia Sastro², Zainal Abidin³

^{1,2,3}Faculty of Law, University Malikussaleh

*Correspondent Author, e-mail: nur.170510111@mhs.unimal.ac.id

Abstract

This study aims to determine & analyze the forms of unlawful acts regulated in law Number 32 of 2009 Concerning Environmental Protection And Management and to find out the judges' Considerations in Imposing Civil Decisions Against Pollution Perpetrators in Environmental Cases Number 735/Pdt/G-LH/2018/PN.Jkt.utr. The method used in this research is using normative juridical research which is library law research conducted by reviewing library legal material to obtain theoretical secondary data, while the type of research used in this study is qualitative research and the nature of the research. Used is descriptive analysis, from the results of research violations of law Number 32 of 2009 Concerning Environmental And Management can lead to acts against the law, the judge decided to grant part of the plaintiff's demands because PT How Are You Indonesia was proven to have committed acts against the law by polluting the environment, life a result of the results of their business activities that produce hazardous and toxic waste (B3) and for companies that produce waste the government has stipulated a regulation regarding the prohibition of disposing of waste into environmental media as regulated in law number 32 of 2009 concerning protection and management of the environment.

Keyword

Unlawful Acts Environmental Pollution

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Introduction

Indonesia is a legal country based on regulations where all power is based on law, both the government and people may not act arbitrarily against acts that are contrary to the law. The rule of law is a country that is ruled not by the people but by the Law.¹ Article 1 Paragraph (3) of the 1945 Constitution states that Indonesia is a constitutional state (*rule of law*) is not a state based on power (*power state*). Action against the law is something the act that gave rise to the loss and the loss was not caused due to a default in the agreement even more clearly mentioned as an act that causes loss to people's rights another born by law and not through contractual relationship.² An act against the law is an act against the law, an act that is against the rights of others, an act that results in the loss of another party and an act that is done outside of his authority or outside of his power as well

¹ Indra Rahmatullah, 2020, *Confirm Return Indonesia As Country Law Pancasila*, Journal IS Law and Justice Bulletin, Vol, 4, No. 2, p.40.

² Glossary, *Definition Deed Oppose Law According to For Member*, <http://thesis.hukum.com./pengertian-perbuatan-melawan-law-menurut-para-ahli>-Accessed on December 22, 2021.

as the consequences of the act, then the person who commits unlawful act must compensation to the injured party.³

In the Civil Code, an act can be called against the law if it fulfills the elements of the unlawful act, namely the existence of an act, an error, a causal relationship and a loss. The Civil Code has regulated acts against the law in book III in Article 1365 which states that any act that causes harm to people another, obliges the person to compensate for the loss that has been caused. As has been confirmed in the provisions of Article 1365 of the Civil Code that "Every act against the law that causes harm to people" another, obliges the person who, because of his fault, issued the loss, to compensate for the loss.⁴ Unlawful acts have provisions that must be fulfilled as well as unlawful acts that occur in the environment, namely the existence of losses and victims, if the environment is polluted then there is a loss to the environment and the ecosystem in it, including humans. Environmental protection and management, especially in the matter of waste, need to get more supervision and attention from the government, especially in supervising companies that produce waste that is harmful to the environment. continue justice, whether criminally, civilly or administratively. The cause is still frequent the occurrence of pollution carried out by the company or industry due to the low level of obedience and compliance as well as public awareness to maintain a clean and healthy environment as an indicator that law enforcement on clean and healthy environmental management has not run properly or is still not firm.⁵

On December 31, 2018, a lawsuit was filed against PT How Are You Indonesia (PT HAYI) as stated in the decision Number: 735/Pdt/G-LH/2018/PN.Jkt.Utr. This lawsuit is a legal action taken by the plaintiff related to the environmental pollution case carried out by the defendant, in this case the defendant is a legal entity in the form of a limited liability company engaged in the textile industry and synthetic fabric sheets/hard fabrics and material management. bakutextiles with dyeing and bleaching, weaving, and refinement processes as well as related business activities. The defendant is suspected of having polluted the environment since December 11, 2013, this was proven after the first verification was carried out at the location of the defendant's factory which is located at Jl. Nanjung No.206, Cibereum Village, South Cimahi District, Cimahi City, West Java Province and from the verification results it was found that B3 waste in the form of Sludge IPAL produced by the defendant's factory. Dalam this lawsuit, plaintiff On December 31, 2018 there was a lawsuit filed against PT How Are You Indonesia (PT HAYI) as stated in the decision Number: 735/Pdt/G-LH/2018/PN.Jkt.Utr. This lawsuit is a legal action taken by the plaintiff related to the environmental pollution case carried out by the defendant, in this case the defendant is a legal entity in the form of a limited liability company engaged in the textile industry and

³Beautiful Sari, 2020, *Deed Oppose Law (PMH) In Law Criminal And Law Civil*, Scientific journals Aerospace Law, Vol, 11 No.1, p.54.

⁴Wiryo Prodjodikoro, *Deed Violate Law*, Cet. VII, Sumur, Bandung, 1984, p., 8.

⁵David Aprizon Boys, 2018, *Implications Politics Enforcement Law In Law-Law Number 32 Year 2009 About Protection And Management Environment Life*, Journal of Islamic Governance and Politics Vol.3 No.1, page 94.

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1. Unlawful Acts in Environmental Pollution Regulated in Law Number 32 Year 2009 concerning Environmental Protection and Management.

EnvironmentLife at this time has become an important asset for a country in realizing development, therefore it is very natural for the government to protect it, because in the event of pollution or environmental destruction the government can take preventive and repressive measures. In this case, there are 3 (three) forms of means that can be proven in suing in the event of a violation of the environment, namely administrative law facilities, means of civil law and means of criminal law. The three legal facilities have an important role in implementing environmental law enforcement.⁶ Based on the Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management Article 1 Paragraph (14) states that "Environmental Pollution is the entry or inclusion of living things, substances, energy, and/or compost. other nen into the environmentliving by human activities so that it transcendsbakudetermined environmental quality. In Article 16 it has been explained that environmental destruction is the act of a person causing direct or indirect changesdirectly to physical, chemical and/or biological characteristics of the environment that exceed the quality standard criteria for environmental damage.

- 1) Perform actions that result in environmental pollution/or destruction;
- 2) Importing B3 which is prohibited in laws and regulations into the territory of the Republic of Indonesia;
- 3) Entering waste originating from outside the territory of the Republic of Indonesia into the environmental media of the State of the Republic of Indonesia;
- 4) importing B3 waste into the territory of the Republic of Indonesia;
- 5) Dispose of waste into environmental media;
- 6) Dispose of B3 and B3 waste into environmental media;
- 7) Releasing genetically engineered products to environmental media that are in contravention of statutory regulations or environmental permits;
- 8) clearing land by burning; Prepare Amdal without having a certificate of
- 9) competence in preparing Amdal;

⁶ Supriadi, *Law Environment Of Indonesia A Introduction*, Second Printing, Sinar Graphic, Jakarta, 2008, p. 285.

10) give false information, misleading, omitting information, tampering with information or providing false information.

2. **Judges' Considerations in Imposing Civil Decisions Against Environmental Pollutants in Cases Number : 735/Pdt.G-LH/2018/PN.Jkt.Utr.**

The basis of the lawsuit filed by the plaintiff in this case is due to an unlawful act that is closely related to Article 1365 in Book III concerning the Civil Code Engagement for the defendant's action which failed to carry out his legal obligations as the person in charge of the business or activity towards protection and environmental management. In this decision, the judge stated that the defendant had committed an unlawful act and also in the decision had described and explained the elements of the unlawful act of the defendant's action, in this case to find out whether the act was an unlawful act, the elements must be fulfilled. An unlawful act which is a material *syarat* to be fulfilled so as to be the basis for claiming damages. Therefore, the author analyzes the facts contained in this case to prove whether the defendant's actions are against the law in accordance with the law with Article 1365 of the Civil Code.

There is an Act

This action can be positive or negative, it means every behavior of doing or not doing.⁷ A positive act is an act that is done by a positive person on purpose and the act causes harm to others while a negative act is not doing an act or remaining silent when according to the law the person must act and as a result result in loss to others.⁸ According to the Writer in this matter, the actions performed by PT HAYI as the defendant have fulfilled the positive elements with *caraa* intentionally or due to carelessness in carrying out its business or activities so as to cause environmental pollution which results in losses to the environment.

There is an error

The element of intention is fulfilled if at that time *ia* commits an act or when he neglects his obligations he already knows the consequences of his actions can cause harm to the environment but he still neglects his obligations.

There is a loss

Any unlawful act committed intentionally or negligently can cause a loss of life balance, both in material and immaterial matters. According to the author, in this case the Minister of Environment and Forestry as the plaintiff has fulfilled the element of loss, where the environment has suffered material losses in the form of costs for restoring the environment that has experienced pollution or environmental damage as a result of the actions of the person in charge of the business, in this case the plaintiff filed a claim for compensation. material amounting to Rp. 12,198,942,574 (twelve billion one hundred ninety eight million

⁷ Mariam Darus Badruzaman, Civil Code Book III, Engagement Law With Explanation, Alumni, Bandung, 1996, hlm, 146-147.

⁸ Decision Number 735/Pdt.G-LH/2018/PN.Jkt.Utr.

nine hundred forty two thousand five hundred and seventy four rupiah) to guarantee the fulfillment of the contents of the decision of the Minister of Environment and Forestry as the plaintiff requesting that a guarantee be confiscated (*Conservatory seizure*) aims to protect the interests of the plaintiff, as well as to avoid the defendant's efforts to transfer all assets or assets on behalf of the rights holder of PT How Are You Indonesia so that this lawsuit is not in vain (*illusoir*) with based on law for the plaintiff requested that the North Jakarta district court place a confiscation of collateral for the land and factory building covering an area of 19015 m² (Nineteen thousand and fifteen square meters) with a building rights certificate.

There is a causal relationship between actions and losses.

The element of causality is an important element in the field of civil law, to find out the existence of a causal relationship between unlawful acts and losses caused.⁹The defendant's actions clearly have a causal relationship with the resulting loss. The author agrees with the judge that this case is an unlawful act, because if the defendant complies and complies with environmental regulations as regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, to comply with or meet the quality standard criteria environment and carry out the request of the Minister of Environment and Forestry to use IPAL in managing textile waste from the results of these activities, it will not be as serious as this and the defendant will also not be sued with unlawful acts., when claims in a mistake, but everything that is done by the person in charge of the business or activity is in accordance with predetermined environmental quality standards without neglecting cleanliness, sustainability and environmental rights, the mistakes made by the person in charge of the business can only be a media risk.

Conclusion

Deed oppose the law regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, namely actions that are prohibited by laws and regulations such as disposing of waste into environmental media, resulting in environmental pollution. An act can be called against the law if it has fulfilled the elements of an unlawful act as regulated in the Civil Code and has fulfilled the cause and effect, the relationship of the act and the impact it causes, there has been an act of environmental pollution that results in material loss to the environment. environment, thus giving rise to lawsuits against the law. The judge's consideration in imposing a civil decision against the perpetrators of environmental pollution in case number: 735/Pdt.G-LH/2018/PN.Jkt.Utr, namely the judge granted some of the demands and rejected some of the plaintiffs' demands for environmental pollution/destruction actions committed the defendant cannot be fully proven by the plaintiff before the trial.

⁹ Decision Number 735/Pdt.G-LH/2018/PN.Jkt.Utr.

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