

**GUGATAN GANTI KERUGIAN PERBUATAN MELAWAN HUKUM
TERHADAP PENYALAHGUNAAN JABATAN KARYAWAN PT JUANG
JAYA ABDI ALAM
(TINJAUAN YURIDIS PUTUSAN PENGADILAN NEGERI
TANJUNGPINRANG NOMOR 76/PDT.G/2020/PN TJK)**

Oleh : Widdika Ahlul Arsyia

ABSTRAK

Penelitian ini mengkaji mengenai bagaimana pertimbangan hukum hakim dalam mengkualifisir unsur-unsur perbuatan melawan hukum, serta bagaimana pertimbangan hukum hakim dalam mengkabulkan tuntutan ganti kerugian perbuatan melawan hukum pada Putusan Pengadilan Negeri Tanjungkarang Nomor 76/Pdt.G/2020/PN Tjk. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan undang-undang dan pendekatan konsep, spesifikasi penelitian preskriptif analitik, sumber data sekunder dengan metode penyajian dalam bentuk teks naratif dan disusun secara sistematis, metode analisis data yang digunakan normatif kualitatif.

Hasil penelitian menunjukkan bahwa Majelis Hakim dalam pertimbangan hukumnya menyatakan Tergugat telah melakukan perbuatan melawan hukum tanpa mengkualifisir unsur-unsur mana yang dilanggar. Menurut pendapat penulis, perbuatan Tergugat telah melakukan perbuatan melawan hukum yakni menyalahgunakan jabatan dengan memanfaatkan fasilitas perusahaan dan melakukan bisnis pribadi tergolong melanggar hak subjektif Penggugat. Perbuatan Tergugat juga bertentangan dengan kewajiban hukum dari si pembuat yakni Tergugat sudah menggunakan fasilitas perusahaan (Penggugat), membuat perjanjian menggunakan kop perusahaan (Penggugat), perbuatan tersebut tidak sesuai dengan wewenang Tergugat. Majelis Hakim mengabulkan tuntutan ganti kerugian yang diajukan Penggugat, Penggugat telah memenuhi syarat-syarat gugatan ganti kerugian Pasal 1365 KUH Perdata, pertimbangan hukum Majelis Hakim mengabulkan tuntutan ganti kerugian materiil Penggugat sebesar Rp 311.652.326,00 (Tiga Ratus Sebelas Juta Enam Ratus Lima Puluh Dua Ribu Tiga Ratus Dua puluh Enam Rupiah), bentuk ganti kerugian akibat dari perbuatan melawan hukum yang dibebankan kepada Tergugat termasuk kedalam ganti rugi kompensasi/aktual, merujuk pada ketentuan ganti rugi umum KUH Perdata pada Pasal 1243 Penggugat telah sesuai mengajukan tuntutan ganti kerugian kepada Tergugat. Pertimbangan hukum Majelis Hakim tidak menyebutkan secara terperinci mengenai korelasi penerapan teori ganti kerugian dalam perbuatan melawan hukum dan ganti rugi secara umum menurut KUH Perdata.

Kata kunci : ganti rugi, perbuatan melawan hukum, penyalahgunaan jabatan

**CLAIM FOR DAMAGES UNLAWFUL ACTS THE MISUSE OF
EMPLOYEE POSITIONS OF JUANG JAYA ABADI ALAM LIMITED
COMPANY**

**(JURIDICAL REVIEW OF TANJUNGPUR DISTRICT COURT
DECISION NUMBER 76/PDT. G/2020/PN TJK)**

By : Widdika Ahlul Arsyah

ABSTRACT

This study examines how the judge's legal considerations in criminalizing the elements of unlawful acts, as well as how the judge's legal consideration in granting the claim for damages for unlawful acts in the Tanjungpur District Court Decision No. 76/Pdt.G/2020/PN Tjk. This study uses normative juridical methods with legal approaches and concept approaches, prescriptive analytical research specifications, secondary data sources with presentation methods in the form of narrative texts and systematically compiled, data analysis methods used qualitatively normative.

The results showed that the Panel of Judges in its legal considerations stated that the Defendant had committed an act against the law without specifying which elements were violated. In the opinion of the author, the defendant's actions have committed an act against the law, namely abusing the position by utilizing company facilities and conducting private business is classified as violating the plaintiff's subjective rights. Defendant's actions are also contrary to the legal obligations of the maker, namely the Defendant has used the company facilities (Plaintiff), made an agreement using the company letterhead (Plaintiff), the act is not in accordance with the authority of the Defendant. The Panel of Judges granted the claim for damages filed by the Plaintiff, the Plaintiff has fulfilled the conditions of the claim for damages Article 1365 of the Civil Code, Legal consideration of the Panel of Judges granted the plaintiff's material damages claim amounting to Rp 311,652,326.00 (Three Hundred Eleven Million Six Hundred Fifty Two Thousand Three Hundred Twenty Six Rupiah), a form of damages resulting from unlawful acts charged to the Defendant including compensation / actual, referring to the provisions of general compensation of the Civil Code in Article 1243 Plaintiff has appropriately filed a claim for damages to the Defendant. The legal considerations of the Panel of Judges do not mention in detail the correlation of the application of the theory of indemnity in unlawful acts and compensation in general according to the Civil Code.

Key words : damages, unlawful acts, abuse of office