

**PERBUATAN MELAWAN HUKUM DALAM PENDIRIAN BANGUNAN
(TINJAUAN YURIDIS PUTUSAN NOMOR 55/Pdt.G/2016/PN Pwt)**

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ABSTRAK

Penelitian ini mengkaji mengenai bagaimana pertimbangan hukum hakim dalam mengkualifisir unsur-unsur perbuatan melawan hukum, dan bagaimana pertimbangan hukum hakim dalam mengabulkan tuntutan ganti kerugian perbuatan melawan hukum pada Putusan Pengadilan Negeri Purwokerto Nomor 55/Pdt.G/2016/PN Pwt. 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 mengotori rumah Penggugat dengan material semen yang jatuh dirumah Penggugat pada saat pembangunan yang dilakukan Tergugat, perbuatan Tergugat termasuk melanggar hak subyektif Penggugat, Penggugat mengeluarkan sejumlah biaya pribadi untuk membersihkan material semen. Perbuatan Tergugat juga bertentangan dengan kewajiban hukum dari si pembuat yakni mendirikan bangunan tanpa dilengkapi dengan surat Izin Mendirikan Bangunan (IMB) telah melanggar ketentuan Pasal 9 ayat (6) Peraturan Daerah Kabupaten Banyumas No. 7 Tahun 2011 Tentang Izin Mendirikan Bangunan, Tergugat telah mengotori rumah Penggugat dengan material semen akan tetapi Tergugat tidak membersihkan material semen yang mengotori rumah Penggugat hal tersebut bertentangan dengan unsur kepatutan yang berlaku dalam lalu lintas masyarakat terhadap diri atau barang orang lain. 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 1.000.000,- (satu juta rupiah), bentuk ganti kerugian akibat dari perbuatan melawan hukum yang dibebankan kepada Tergugat termasuk kedalam ganti rugi kompensasi/actual, melihat pada ketentuan pengaturan ganti rugi umum pada Pasal 1243 KUH Perdata 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 : perbuatan melawan hukum, pendirian bangunan, ganti rugi

**UNLAWFUL ACTS IN THE ESTABLISHMENT OF BUILDINGS
(JURIDICAL REVIEW OF VERDICT NO. 55/Pdt.G/2016/PN Pwt)**

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ABSTRACT

This research examines how the judge's legal considerations in qualifying the elements of unlawful acts, and how the judge's legal considerations in granting claims for damages of unlawful acts in Purwokerto District Court Decision No. 55 / Pdt.G / 2016 / PN Pwt. This research uses normative juridical methods with legal approaches and concept approaches, analytical prescriptive research specifications, secondary data sources with presentation methods in the form of narrative texts and systematically compiled, data analysis methods used qualitative normatively.

The results of the study showed that the Panel of Judges in its legal considerations stated that the Defendant had committed unlawful acts without qualified which elements were violated. In the opinion of the author, the defendant's actions have committed unlawful acts that pollute the Plaintiff's house with cement material that fell in the Plaintiff's house at the time of the Defendant's construction, the Defendant's actions include violating the subjective rights of Plaintiffs, the Defendant insanuated a number of personal costs to clean the cement material. Defendant's actions are also contrary to the legal obligation of the maker, namely building without being equipped with a Building Permit has violated the provisions of Article 9 paragraph (6) of Banyumas District Regulation No. 7 of 2011 concerning Building Permits, Defendant has soiled the Plaintiff's house with cement material but defendant does not clean the cement material that pollutes the Plaintiff's house it is contrary to the element of propriety that is berl I'm in the traffic of society against myself or other people's stuff.. Defendant has contaminated Plaintiff's house with cement material, but Defendant does not clean cement material that pollutes the Plaintiff's house it is contrary to the element of propriety that applies in community traffic to themselves or other people's goods. The Panel of Judges granted the claim for damages filed by Plaintiff, Plaintiff has fulfilled the conditions of the damages lawsuit Article 1365 of the Civil Code, the legal consideration of the Panel of Judges granted the Plaintiff's material damages claim of Rp 1,000,000,- (one million rupiah), the form of damages resulting from unlawful acts charged to the Defendant including in compensation / actual damages, looking at the provisions of the general damages arrangement in Article 1243 of the Plaintiff's Civil Code has appropriately filed a claim for damages to the Defendant. The legal considerations of the Panel of Judges do not mention in detail about the correlation of the application of the theory of indemnity in unlawful acts and indemnity in general according to the Civil Code.

Key words : unlawful acts, building, compensation.