

**PERBUATAN MELAWAN HUKUM DALAM SENGKETA HAK ATAS  
TANAH DI KOTA BANJAR JAWA BARAT  
(TINJAUAN YURIDIS TERHADAP PUTUSAN MAHKAMAH AGUNG  
NOMOR 2895/K/PDT/2018)**

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**ABSTRAK**

Penelitian ini mengkaji mengenai bagaimana pertimbangan hukum hakim dalam mengkualifisir unsur-unsur Perbuatan Melawan Hukum pada Putusan Pengadilan Negeri Ciamis Nomor 16/Pdt.G/2016 dan bagaimana penerapan hukum hakim pada putusan Pengadilan Negeri Ciamis Nomor 16/Pdt.G/2016 dan putusan Mahkamah Agung Nomor 2895/K/Pdt/2018, menggunakan metode yuridis normatif dengan pendekatan undang-undang dan analisis kasus. Spesifikasi penelitian deskriptif analitis, sumber data sekunder dengan metode penyajian dalam bentuk teks naratif dan disusun secara sistematis menggunakan metode analisis normatif kualitatif.

Dari hasil penelitian dapat diketahui bahwa Majelis Hakim mempertimbangkan perbuatan para Tergugat dan turut Tergugat telah melakukan Perbuatan Melawan Hukum yakni menguasai dan memindahtangankan tanah milik Penggugat sehingga melanggar hak subyektif Penggugat. Perbuatan para Tergugat dan turut Tergugat tersebut juga bertentangan dengan kewajiban hukum si pembuat yakni terkait dengan pemasangan patok sebagai penetapan bidang tanah atas nama Hankam di atas tanah milik Penggugat dengan tanpa kesepakatan Penggugat. Terkait unsur kepatutan dalam pergaulan masyarakat mengenai diri atau barang orang lain, perbuatan para Tergugat dan turut Tergugat terbukti bertentangan dan sangat merugikan kepentingan Penggugat. Sedangkan mengenai penerapan hukum hakim pada putusan Pengadilan Negeri Ciamis Nomor 16/Pdt.G/2016 sudah tepat dalam menerapkan hukumnya karena perbuatan para Tergugat dan turut Tergugat telah memenuhi syarat Perbuatan Melawan Hukum yang terdapat dalam Pasal 1365 KUH Perdata dan putusan Mahkamah Agung Nomor 2895/K/Pdt/2018 sudah tepat dalam menerapkan hukumnya berdasarkan pasal 42 ayat (1) Undang-undang Nomor 1 Tahun 2004 tentang Perbendaharaan Negara jo Pasal 4 ayat (1) Peraturan Pemerintah Nomor 6 Tahun 2006 tentang Pengelolaan barang Negara/ daerah.

Kata kunci : unsur, perbuatan melawan hukum, penerapan hukum

**ACTIVITIES AGAINST THE LAW IN LAND DISPUTES IN BANJAR CITY,  
WEST JAVA  
(JURIDICAL REVIEW OF THE SUPREME COURT DECISION NUMBER  
2895/ K/ PDT / 2018)**

**By: Melati Merdekawati**

**ABSTRACT**

Article 13656 of the Civil Code regulates the conditions for filing a claim for compensation for activities against the law. This study aims to analyze of judges in qualifying the elements on the Ciamis District Court Decision Number 16/Pdt.G/2016 and how to apply the law of the judge to the Ciamis District Court decision Number 16/ Pdt.G/2016 and the Supreme Court decision Number 2895 /K/Pdt/2018, using a normative juridical method with a law and case analysis. The specification of descriptive analytical research, secondary data sources and qualitative normative analysis methods.

The result shows that the Panel of Judges considered the actions of the Defendants and co-defendants to have committed illegal acts without qualifying which elements were violated. According to the author's opinion, the actions of the Defendants and co-defendants have committed illegal acts, namely controlling and transferring the land owned by the Plaintiff so that it violates the Plaintiff's subjective rights and the element of appropriateness in public relations regarding the self or property of other people, because the actions of the Defendants and co-defendants were proven to be contradictory and very detrimental to the interests of the Plaintiff. The application of the judge's law in the decision of the Ciamis District Court Number 16/Pdt.G/2016, it is appropriate because the actions of the Defendants and co-defendants have met the requirements contained in Article 1365 of the Civil Code and the Supreme Court decision Number 2895 K/Pdt/2018 is correct in implementing the law based on Article 42 paragraph (1) of Law Number 1 of 2004 concerning State Treasury in conjunction with Article 4 paragraph (1) of Government Regulation Number 6 of 2006 concerning Management of State/ regional goods as formal law, but doesn't consider material law.

Key words: acts against the law, application of the law, land dispute