

**TINJAUAN YURIDIS TERHADAP PERBUATAN MELAWAN HUKUM
ATAS PENAHANAN BARANG TANPA ALASAN YANG SAH
(Studi Putusan Nomor 194/Pdt.G/2024/PN Jkt.sel)**

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ABSTRAK

Dalam hukum perdata, kepemilikan atas suatu barang merupakan hak subjektif yang dilindungi secara mutlak. Setiap perbuatan melawan hukum yang melanggar hak tersebut dikualifikasikan sebagai Perbuatan Melawan Hukum (*Onrechtmatige Daad*) berdasarkan Pasal 1365 KUHPerdata. Hubungan hukum dalam Putusan Nomor 194/Pdt.G/2024/PN Jkt.sel berawal dari perjanjian untuk berbuat sesuatu antara Hadi Mahmoudian dengan Hendra Rahardja. Perjanjian tersebut berupa servis sepeda motor milik Hadi Mahmoudian. Namun setelah servis selesai, Hendra Rahardja justru menahan sepeda motornya tanpa alasan yang sah. Karena hal tersebut, Hadi Mahmoudian menggugat Hendra Rahardja atas dasar Perbuatan Melawan Hukum. Penelitian ini bertujuan untuk melakukan Tinjauan Yuridis terhadap pertimbangan hakim dalam mengkualifisir tindakan Tergugat sebagai Perbuatan Melawan Hukum dan dalam mengabulkan tuntutan ganti kerugian. Penelitian ini menggunakan metode yuridis normatif dengan spesifikasi preskriptif analitis, dilakukan melalui pendekatan undang-undang, pendekatan kasus, dan pendekatan konseptual, di mana data sekunder diperoleh melalui studi kepustakaan dan dianalisis secara normatif kualitatif untuk kemudian disajikan dalam bentuk teks naratif. Hasil penelitian menunjukkan bahwa perbuatan Tergugat telah melanggar hak subjektif Penggugat yaitu menahan harta kekayaan berupa satu unit sepeda motor merk Honda jenis Phantom dengan taksiran kerugian senilai Rp.44.500.000 serta bertentangan dengan kewajiban hukum Tergugat sendiri berupa Pasal 378 KUHP, Pasal 7 huruf a Undang – Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, dan Pasal 406 ayat (1) KUHP. Perbuatan Tergugat juga menunjukkan adanya kesalahan berupa kesengajaan (*dolus*) dan adanya hubungan kausal antara perbuatan dengan kerugian (*adaequat veroorzaking*). Majelis Hakim menolak tuntutan ganti kerugian materiil dan immateriil, tetapi Majelis Hakim mengabulkan tuntutan ganti kerugian dalam bentuk natura yaitu mengembalikan sepeda motor seperti semula beserta salinan nota pembeliannya. Hal ini didasarkan pada pertimbangan terbuktinya hilangnya hak Penggugat untuk menguasai dan memiliki sepeda motornya akibat penahanan yang tidak sah. Oleh karena itu, menurut penulis, Majelis Hakim dalam mengabulkan ganti kerugian sudah tepat.

Kata Kunci: Perbuatan Melawan Hukum, Penahanan Barang, Ganti Kerugian.

**JURIDICAL REVIEW OF UNLAWFUL ACT
FOR THE DETENTION OF GOODS WITHOUT A VALID LEGAL REASON
(Case Study of Decision Number 194/Pdt.G/2024/PN Jkt.sel)**

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ABSTRACT

In civil law, ownership of an item is a subjective right that is absolutely protected. Any unlawful act that violates this right is qualified as an Unlawful Act (Onrechtmatige Daad) based on Article 1365 of the Civil Code. The legal relationship in Decision Number 194/Pdt.G/2024/PN Jkt.sel began with an agreement to do something between Hadi Mahmoudian and Hendra Rahardja. The agreement was in the form of servicing Hadi Mahmoudian's motorcycle. However, after the service was completed, Hendra Rahardja instead withheld his motorcycle without a valid reason. Because of this, Hadi Mahmoudian sued Hendra Rahardja on the basis of an Unlawful Act. This study aims to conduct a Juridical Review of the judge's considerations in qualifying the Defendant's actions as an Unlawful Act and in granting a claim for compensation. This research uses a normative juridical method with analytical prescriptive specifications, conducted through a statutory approach, a case approach, and a conceptual approach, where secondary data is obtained through a literature study and analyzed normatively qualitatively to then be presented in the form of narrative text. The results of the study indicate that the Defendant's actions have violated the Plaintiff's subjective rights, namely withholding assets in the form of a Honda Phantom motorcycle with an estimated loss of Rp.44,500,000 and are contrary to the Defendant's own legal obligations in the form of Article 378 of the Criminal Code, Article 7 letter a of Law Number 8 of 1999 concerning Consumer Protection, and Article 406 paragraph (1) of the Criminal Code. The Defendant's actions also show an error in the form of intent (dolus) and a causal relationship between the act and the loss (adaequat veroorzaking). The Panel of Judges rejected the claim for material and immaterial compensation, but the Panel of Judges granted the claim for compensation in kind, namely returning the motorcycle as it was, along with a copy of the purchase note. This is based on the evidential loss of the Plaintiff's right to control and own his motorcycle due to the unlawful detention. Therefore, the author believes the Panel of Judges was correct in granting compensation.

Keywords: Unlawful Act, Detention of Goods, Compensation.