

## ABSTRAK

### **PENERAPAN TANGGUNG JAWAB MUTLAK (*STRICT LIABILITY*) DAN GANTI KERUGIAN LINGKUNGAN HIDUP AKIBAT KEBAKARAN HUTAN DAN LAHAN GAMBUT (Studi Putusan Nomor: 297 PK/Pdt/2024)**

Oleh

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Gugatan perdata lingkungan hidup berdasarkan tanggung jawab mutlak (*strict liability*) dan penentuan jumlah ganti kerugian menghadapi tantangan serius. Perkara antara KLHK melawan PT KS atas kebakaran hutan dan lahan gambut menunjukkan inkonsistensi penerapan *strict liability* di tingkat peradilan, sementara besaran ganti rugi yang tidak seimbang dengan kerusakan tidak menimbulkan efek jera bagi pelaku usaha. Penelitian ini mengkaji konsistensi penerapan *strict liability*, kesesuaian pertimbangan hukum Majelis Hakim Agung dalam dua Putusan Peninjauan Kembali terhadap penerapan *strict liability* dan kesesuaian terhadap prinsip penentuan komponen dan besaran ganti kerugian lingkungan hidup.

Jenis penelitian ini adalah penelitian hukum normatif dengan tipe penelitian deskriptif, menggunakan pendekatan konseptual, perundang-undangan, dan pendekatan kasus untuk menganalisis putusan dalam perkara KLHK melawan PT KS. Data sekunder yang digunakan berupa peraturan perundang-undangan, putusan pengadilan, buku, dan jurnal hukum, selanjutnya data dianalisis secara kualitatif untuk menjawab rumusan masalah tentang penerapan *strict liability* dan perhitungan ganti kerugian lingkungan hidup.

Hasil penelitian menunjukkan bahwa Majelis Hakim Pengadilan Tinggi Palangkaraya keliru dalam menafsirkan dan menerapkan Pasal 88 UU Cipta Kerja. Majelis Hakim Agung melalui dua Putusan Peninjauan Kembali mengoreksi Putusan Pengadilan Tinggi Palangkaraya dan menegaskan bahwa *strict liability* tidak berubah pasca berlakunya UU Cipta Kerja, penguasaan atas areal terbakar saja cukup untuk menimbulkan tanggung jawab mutlak, serta pertanggungjawaban perdata bersifat independen dari putusan pidana yang membebaskan PT KS dari tanggung jawab. Dari total permohonan ganti kerugian yang diajukan oleh Kementerian Lingkungan Hidup dan Kehutanan sebesar Rp1.188.114.926.020, hanya dikabulkan sebesar Rp175.179.930.000 oleh Majelis Hakim.

**Kata Kunci:** *Tanggung Jawab Mutlak, Ganti Kerugian Lingkungan Hidup.*

**ABSTRACT****APPLICATION OF STRICT LIABILITY  
AND COMPENSATION ENVIRONMENTAL DAMAGES  
DUE TO FOREST AND PEATLAND FIRES  
(Study of Decision Number: 297 PK/Pdt/2024)****By****ARKAN BAYUN PRASETYO**

*Environmental civil lawsuits based on strict liability and the determination of the amount of compensation face serious challenges. The case between the Ministry of Environment and Forestry and PT KS over peatland fires shows the inconsistency in the implementation of strict liability at the judicial level, while the amount of compensation disproportionate to the damage does not cause a deterrent effect on business actors. This study examines the consistency of the application of strict liability, the suitability of the legal considerations of the Supreme Court in the two Review Decisions on the application of strict liability and the conformity to the principle of determining components and the amount of environmental compensation.*

*This study uses a normative legal method with a descriptive type, using a conceptual, legislative, and case approach to analyze the verdict in the PT Kumai Sentosa case. Secondary data in the form of legislation, court decisions, books, and legal journals were analyzed qualitatively to answer the research questions regarding the application of strict liability and the calculation of environmental damages.*

*The results of the study show that the Panel of Judges of the Palangkaraya High Court was wrong in interpreting and applying Article 88 of the Job Creation Law. The Supreme Court through two Review Decisions corrected the Palangkaraya High Court Decision and emphasized that strict liability did not change after the enactment of the Job Creation Law, control over the burned area was sufficient to give rise to absolute liability, and civil liability was independent of the criminal judgment that exempted PT Kumai Sentosa from liability. Of the total compensation applications submitted by the Ministry of Environment and Forestry amounting to Rp1,188,114,926,020, only Rp175,179,930,000 was granted by the Panel of Judges.*

**Keywords: Strict Liability, Compensation for Environmental Damages.**