

ABSTRACT

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“STRICT LIABILITY RULE APPLIED TO LAWSUITS AGAINST UNLAWFUL ACTS IN MANAGING ENVIRONMENTAL CASES (CASE STUDY OF DECISION NO.139/PDT.G-LH/2016/PN JMB)”

(xi+92 pages; 2 attachments)

Filing a lawsuit against unlawful acts, which is regulated in Article 1365 of the Indonesian Civil Code, and demanding strict liability based on Article 88 of Law No.32 of 2009 Concerning Protection and Management of Environment (UUPPLH) is often simultaneously used as a basis in managing environmental cases even though it results in two different forms of accountability similar to what happened in the case of Decision No. 139/PDT.G-LH/2016/PN Jmb. Therefore, there needs to be a proper inquiry of how the lawsuit against violation of law in environmental cases is applied, and how the strict liability rule is applied to claims of violation against the law in environmental cases, particularly on the case of Decision No. 139/PDT.G-LH/2016/PN Jmb. This research uses an empirical normative legal research method. The results showed are applications of lawsuit against violation of law in Indonesia based on article 1365 of the Indonesian Civil Code or specific laws in article 87 of the UUPPLH. In addition, the results showed the application of strict liability based on article 88 of UUPPLH. Moreover, in applying strict liability in filling the lawsuit against unlawful acts in Decision No. 139/PDT.G-LH/2016/PN Jmb, the judicial panel only attested to the unlawful acts in determining the strict liability even though the two aspects have different forms of accountability. From these results, it can be concluded that the application of lawsuit against unlawful acts in managing cases in Indonesia can be done in two ways which are liability based on fault and liability without fault. Furthermore, referring to Decision No.139/PDT.G-LH/2016/PN Jmb, Proving offence in unlawful and ensuring the activities of the defendant is not included in the provisions of Article 88 UUPPLH is one form of fairly appropriate application related to the strict liability rule is applied to claims of violation against the law in environmental cases. Considering the form of accountability of the two regulations is different.

Keywords: Unlawful acts, strict liability, environmental pollution

Reference: 56 (1982-2019)