

## ABSTRAK

### **PENERAPAN PRINSIP *STRICT LIABILITY* DALAM PUTUSAN PENGADILAN PERKARA KEBAKARAN LAHAN PERKEBUNAN KELAPA SAWIT PT. KUMAI SENTOSA**

Bagi para pengusaha perkebunan sawit, pembakaran lahan bukanlah semata-mata tentang kerugian dan kerusakan, tetapi cara untuk memperoleh keuntungan. Dalam penegakan hukumnya lingkungan hidup, pemerintah menggunakan asas tanggung jawab mutlak (*strict liability*) untuk menghukum pelanggar UU Perlindungan dan Pengolahan Lingkungan Hidup. *Strict liability* yakni unsur kesalahan tidak perlu dibuktikan oleh pihak penggugat sebagai dasar pembayaran ganti rugi. Kasus kebakaran hutan dan lahan juga terjadi di Desa Sei Cabang, Kecamatan Kumai, Kabupaten Kota waringin Barat, Provinsi Kalimantan Tengah Pada bulan Agustus sampai dengan September 2019 di lahan perkebunan sawit milik/izin atas nama PT. KS di wilayah Taman Nasional Tanjung Puting. Atas kejadian tersebut, Penegak Hukum Kementerian Lingkungan Hidup dan Kehutanan (Gakkum KLHK) menjerat PT. KS menggunakan pembuktian dengan prinsip *strict liability* dengan menghukum Tergugat untuk membayar ganti rugi materiil secara tunai kepada Penggugat melalui Rekening Kas Negara sejumlah Rp.175.179.930.000,- dan pemulihan lingkungan hidup pada areal yang terbakar. Namun, gugatan tersebut dianggap gugur oleh Hakim lewat banding PT. KS pada Putusan No 102/PDT.G-LH/2021/PT PLK. Berdasarkan permasalahan yang sudah penulis uraikan tersebut, penulis melakukan penelitian dan pengkajian mendalam terkait bagaimana Pengaturan Prinsip *Strict Liability* di dalam UU No 32 Tahun 2009 dalam pertimbangan hukum Putusan Pengadilan Tinggi Palangkaraya No 102/PDT/G-LH/2021/PT PLK. Hasil putusan sidang menunjukkan asas *strict liability* yang dipakai untuk menggugat PT. KS gugur karena tidak memiliki dasar hukum dan PT. KS tidak terbukti menggunakan, menghasilkan limbah B3 dan tidak terbukti menimbulkan ancaman yang serius, kebakaran lahan yang terjadi bukan disebabkan oleh aktivitas kegiatan perusahaan tetapi disebabkan oleh pihak ketiga atau *force majeure*.

**Kata Kunci :** ganti rugi, kebakaran hutan, lingkungan hidup, *strict liability*

## ABSTRACT

### **IMPLEMENTATION OF STRICT LIABILITY PRINCIPLES IN THE COURT'S DECISION ON THE FIRE CASE OF PT. KUMAI SENTOSA'S PALM OIL PLANTATION**

*For oil palm plantation entrepreneurs, land burning is not merely about loss and damage but a way to profit. In enforcing environmental law, the government uses the principle of absolute responsibility (strict liability) to punish violators of the Environmental Protection and Processing Act. Strict liability is an element of error that does not need to be proven by the plaintiff as a basis for compensation payments. Cases of forest and land fires also occurred in Sei Branch Village, Kumai District, Kota Waringin Barat District, Central Kalimantan Province from August to September 2019 on oil palm plantation land owned/permitted on behalf of PT. KS in the Tanjung Puting National Park area. The Law Enforcement Ministry of Environment and Forestry (Gakkum KLHK) ensnared PT for this incident. KS used evidence with the principle of strict liability by punishing Defendant to pay material compensation in cash to the plaintiff through the State Cash Account in Rp.175,179,930,000.- and environmental restoration in the burned area. However, the Judge dismissed the lawsuit through an appeal by PT. KS in Decision Number 102/PDT.G-LH/2021/PT PLK. Based on the problems that the author has described, the author conducted in-depth research and studies related to how the Strict Liability Principle is regulated in Law Number 32 of 2009 in legal considerations of the Palangkaraya High Court Decision Number 102/PDT/G.-LH/2021/PT PLK. The court decision results show that strict liability principles were used to sue PT. KS failed because it had no legal basis, PT. KS is not proven to use or produce B3 waste and is not proven to pose a severe threat, and land fires that occur are not caused by company activities but are caused by third parties or force majeure.*

**Keywords : compensation, forest fire, legal environment, strict liability**