

Akibat perbuatan melawan hukum dalam sengketa penguasaan atas tanah dan bangunan tanpa hak di Kota Pekanbaru (analisis putusan Pengadilan Tinggi Riau No: 26/PDT/ 2012/PTR = The law effects due to unlawful act in dispute of land and building controlling without rights in Pekanbaru case no: 26/PDT/2012/PTR)

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Abstrak

Perbuatan melawan hukum dalam perkara No. 26/PDT/2012/PTR telah memenuhi unsur perbuatan melawan hukum sebagaimana diatur dalam Pasal 1365 Kitab Undang-Undang Hukum Perdata. Hal ini disebabkan pihak penggugat selaku pihak yang merasa dirugikan telah dapat membuktikan kepemilikan hak atas tanah yang di ajukan ke pengadilan negeri Pekanbaru serta dikuatkan oleh putusan Pengadilan Tinggi Riau Nomor 26/PDT/2012/PTR yang telah mempunyai kekuatan hukum tetap, serta telah memenuhi unsur perbuatan melawan hukum dari segi hukum pidana yang melanggar tergugat melanggar Peraturan Pemerintah Pengganti Undang Undang No. 51 Tahun 1960 Tentang : Larangan Pemakaian Tanah Tanpa Ijin Yang Berhak Atau Kuasanya. Sehingga telah terbukti tergugat telah melakukan perbuatan melawan. Metode yang digunakan dalam penelitian ini adalah metode yuridis normatif, penarikan kesimpulan penelitian ini dilakukan dengan metode logika deduktif.

Kesimpulan yaitu dimana tergugat telah melakukan Penguasaan dan Penggunaan Tanah secara Illegal, yaitu Tergugat telah melanggar pasal 2 Undang-Undang Nomor 51 Prp Tahun 1960 tentang Larangan pemakaian Tanah Tanpa Izin Yang Berhak Atau Kuasanya mengatakan "Dilarang memakai tanah tanpa ijin yang berhak atau kuasanya yang sah, sehingga sanksi pidana sebagaimana tercantum dalam Pasal 6 Undang-Undang Nomor 51 Prp Tahun 1960 tentang Larangan pemakaian Tanah Tanpa Izin Yang Berhak Atau Kuasanya.

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The unlawful act in case No. 26 / PDT / 2012 / PTR has met the elements of unlawful act as provided for in Article 1365 of Civil Code. This is due to the plaintiff as the party who feels aggrieved has been able to prove ownership of land rights in the District Court of Pekanbaru and upheld by the High Court Pekanbaru No. 26 / PDT / 2012 / PTR who already have permanent legal force, and has fulfilled the elements of unlawful act in terms of criminal law that violates. The defendant violated Government Regulation of law No. 51 Year 1960 About: Prohibition of Use of Land Without Permission of The Eligible or The Proxy. So that has been proven that the defendant be liable of unlawful act. The method used in this research is normative juridical methods. At this research, the conclusion draws will be carried out by the method of deductive logic.

It is concluded that the judge did not consider the terms of the criminal law that where the defendant has done Tenure and Land Use in Illegal, that Defendant had violated Article 2 of Law No. 51 Prp of 1960 on Prohibition of Use of Land Without Permission of The Eligible or The Proxy, which mentioned "Banned uses the land without permission entitled or authorized proxy ", so the judges should deciding cases consider this matter with the settlement dispute that the defendant not only got the sanction for damages materially, but exposed to penal sanctions as contained in Article 6 of Law No. 51 Prp Year 1960 on Prohibition of Use

of Land Without Permission of The Eligible or The Proxy.