

ABSTRAK

Dalam Putusan Mahkamah Agung Nomor 4268 K/Pdt/2022 terdapat penggabungan gugatan wanprestasi dan perbuatan melawan hukum dalam posita pada poin 5b dan c, 7 dan 9a sedangkan dalam petitum pada poin 3, dan terdapat perubahan kualifikasi perbuatan hukum dari wanprestasi di Pengadilan Negeri dalam Putusan Nomor 48/Pdt.G/2020/PN. Bdg dan Pengadilan Tinggi dalam Putusan Nomor 115/Pdt/2021/PT. Bdg menjadi perbuatan melawan hukum di Mahkamah Agung dalam Putusan Nomor 4268 K/Pdt/2022. Penelitian ini bertujuan untuk menganalisis praktik penggabungan gugatan wanprestasi dan perbuatan melawan hukum di Indonesia serta menganalisis dan mengetahui pertimbangan hakim dalam memutus perkara dengan dasar gugatan wanprestasi dan perbuatan melawan hukum pada putusan nomor 4268 K/Pdt/2022 yang semula dikualifikasikan wanprestasi diubah menjadi perbuatan melawan hukum.

Metode penelitian menggunakan jenis penelitian normatif dengan pendekatan perundang-undangan dan kasus. Teknik pengumpulan data dilakukan dengan studi kepustakaan terhadap bahan hukum primer yang terdiri dari peraturan perundang-undangan, yurisprudensi dan Surat Edaran Mahkamah Agung, sedangkan bahan hukum sekunder berupa buku-buku, skripsi, jurnal, artikel yang berkaitan dengan isu yang diteliti. Analisa data yang digunakan adalah analisis preskriptif.

Hasil penelitian menunjukkan bahwa dalam praktiknya penggabungan gugatan wanprestasi dan perbuatan melawan hukum tidak diperbolehkan jika tidak ada kaitan erat, karena dapat menyebabkan gugatan kabur dan tidak diterima. Namun, jika keduanya berkaitan erat dan diuraikan secara jelas, terpisah, serta sistematis, penggabungan diperbolehkan. Dalam Putusan No. 4268 K/Pdt/2022, gugatan dinilai sah karena kedua dasar gugatan berkaitan erat dengan objek dan peristiwa yang sama serta dijelaskan secara terpisah, dasar pertimbangan Hakim dalam Putusan Nomor 4268 K/Pdt/2022, Mahkamah Agung menilai bahwa perbuatan Para Tergugat merupakan perbuatan melawan hukum. Hal ini didasarkan pada perjanjian penegasan jual beli (bukti P-1) dianggap batal demi hukum karena tidak memenuhi syarat objektif perjanjian sebagaimana diatur dalam Pasal 1320 BW. Dan berdasarkan fakta persidangan tanah objek sengketa telah bersertifikat atas nama pihak lain (bukti P-3), sementara Para Tergugat menerima uang sebesar Rp2.375.000.000,- dari Penggugat tanpa memiliki kewenangan atas hak tanah tersebut. Sehingga memenuhi unsur-unsur perbuatan melawan hukum Pasal 1365 BW.

Kata kunci: Penggabungan Gugatan, Wanprestasi, Perbuatan Melawan Hukum

ABSTRACT

In Supreme Court Decision Number 4268 K/Pdt/2022, there is a combination of default lawsuits and unlawful acts in posita at points 5b and c, 7 and 9a while in petitum at point 3, and there is a change in the qualification of legal acts from default in the District Court in Decision Number 48/Pdt.G/2020/PN. Bdg and the High Court in Decision Number 115/Pdt/2021/PT. Bdg became an unlawful act at the Supreme Court in Decision Number 4268 K/Pdt/2022. This study aims to analyze the practice of combining default lawsuits and unlawful acts in Indonesia as well as analyze and find out the judge's considerations in deciding cases on the basis of tort lawsuits and unlawful acts in decision number 4268 K/Pdt/2022 which was originally qualified as a default changed to an unlawful act.

The research method uses a normative type of research with a legislative and case approach. The data collection technique was carried out by literature study of primary legal materials consisting of laws and regulations, jurisprudence and Supreme Court Circulars, while secondary legal materials were in the form of books, theses, journals, articles related to the issue being studied. The data analysis used is a prescriptive analysis.

The results of the study show that in practice, the combination of default lawsuits and unlawful acts is not allowed if there is no close relationship, because it can cause lawsuits to run away and not be accepted. However, if the two are closely related and clearly defined, separate, and systematic, mergers are allowed. In Decision No. 4268 K/Pdt/2022, the lawsuit is considered valid because the two grounds of the lawsuit are closely related to the same object and event and are explained separately, the basis for the Judge's consideration in Decision No. 4268 K/Pdt/2022, the Supreme Court considers that the Defendants' actions are unlawful. This is based on the fact that the sale and purchase affirmation agreement (P-1 evidence) is considered null and void because it does not meet the objective requirements of the agreement as stipulated in Article 1320 of the BW. And based on the facts of the land trial, the object of dispute has been certified on behalf of the other party (evidence P-3), while the Defendants received money of Rp2,375,000,000,- from the Plaintiff without having authority over the land rights. So that it fulfills the elements of unlawful acts of Article 1365 of the BW.

Keywords: Merger of Lawsuits, Defaults, Unlawful Acts