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Corporate Civil Liability for Environmental Damage and Burning of Peatlands in Rawa Tripa Forest A Case Law Government Rights to Lawsuit Against PT. Kallista Alam

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Abstract

This legal research aims to analyze the case of burned peatlands in Rawa Tripa Forest in the case-law of an environmental civil lawsuit between the Ministry of Environment and Forestry of the Republic of Indonesia (KLHK-RI) as the plaintiff against PT. Kallista Alam (defendant) at Meulaboh District Court. A court judgement partially granted the plaintiff's claim. Legal issues are formulated as the problem, how are the rationale for the decision (ratio decidendi) and legal norms created in court judgement? And what about the legal norms created in the court's decision regarding the environmental civil suit. The plaintiff's claim was partially granted and improved by Banda Aceh High Court. Ratio decidendi of court decisions culminated in the legal norms of the Supreme Court Decision Number 651 K/Pdt/2015 on August 28, 2015. The article 90 paragraph (1) Law of the Republic of Indonesia Number 32 Year 2009 regarding Protection and Management of Environment (UU PPLH 2009) increasingly confirmed that Governmental Agency and Local Government in charge of the environment should be authorized to file lawsuits and claims for the compensation of damages and the compulsion of a specific action. The action needs to be done against those who are in charge of undertakings and/or activities that cause pollution and/or damage to the environment and environmental losses, against corporate civil liability of PT. Kallista Alam.

Keywords

government right to lawsuit, corporate civil liability, Rawa tripa forest

Introduction

The Case of Land and Forest Fire (Karhutla) in the Tripa Peat Swamp Protected Forest, Nagan Raya Regency, Aceh Province (formerly Nangroe Aceh Darussalam Province) has captured public attention from 2012 to 2017 and up to now (from now on referred to the Case of Tripa Peat Swamp Karhutla). Two parties that encounter each other in the Rawa Tripa Karhutla Case file a claim for compensation and specific actions against businesses and/or activities that cause pollution and/or environmental damage resulting in environmental losses, submitted by the State Ministry of Environment and the Forestry of the Republic of Indonesia (abbreviated as the Ministry of LHK-RI) as the plaintiff against PT. Kallista Alam as a corporation or oil palm plantation company as a defendant.1

The case of Tripa Peat Swamp Karhutla started from PT. Kallista Alam that is located in Nagan Raya Regency, Aceh Province obtained the Governor of Aceh's License Number 525/BP2T/5322/2011 August 25, 2011, concerning the Cultivation Plantation Business Permit to open the area of oil palm plantations over the protected forest area of Rawa Tripa peatland covering an area of 1,605 hectares. Based on the Aceh Governor's permission, PT. Kallista Alam has cleared the Tripa Peat Swamp Forest land by burning during May-June 2011 and continued in March, May and June 2012 at the hotspot of the Tripa Peat Swamp area of approximately 1000 (one thousand) hectares.

Then, through the Ministry of LHK-RI around the middle of 2012, the State has filed a civil lawsuit on environmental disputes against the corporation of PT Kallista Alam in the Meulaboh District Court, West Aceh Regency, in this article, can be abbreviated as Ministry of Environment and Forestry v. PT. Kallista Alam. The court has decided the court's legal process in the civil case, namely the Decision of the Meulaboh District Court Number 12/Pdt.G/2012/PN-MBO dated January 8, 2014, jo. Banda Aceh District Court Decision Number 50/PDT/2014/PT.BNA, dated August 15, 2014, jo. The decision of the Supreme Court Number 651 K/Pdt/2015 dated August 28, 2015, has permanent legal force (inkracht van gewijsde), and Supreme Court Decision Number 1 PK/PDT/2017 dated April 18, 2017.

The environmental lawsuit was won by the plaintiff of the Ministry of Environment and Forestry of the Republic of Indonesia because the Meulaboh District Court Decision Number 12/pdt.G/2012/PN.MBO, dated January 8, 2014, has granted the plaintiff's claim in part, that is the defendant PT. Kallista Alam has been proven to have committed acts that violate the law so that PT. Kallista Alam was sentenced to pay material compensation in cash to the plaintiff through the

[1] Haris Widi, Asmoro Atmojo, and Rehnalemken Ginting, 'International Journal of Multicultural and Multireligious Understanding Ideal Arrangements of Additional Criminal Sanctions for the Recovery of Environmental Functions for Corporations in Guarantee of Legal Certainty in Indonesia', 2022, 683–95 <https://doi.org/http://dx.doi.org/10.18415/ijmmu.v9i3.3642>.

State Treasury account in the amount of Rp.114,303,419,000.00 (one hundred and fourteen billion three hundred three million four hundred nineteen thousand rupiahs). The defendant of PT. Kallista Alam was also sentenced not to commit a particular act so that the defendant did not plant in a peatland that had burned approximately 1,000 hectares in Pulo Kruet Village, Darul Makmur District, Nagan Raya Regency, Aceh Province.

Likewise, the Defendant PT. Kallista Alam is condemned in condemnatoir in respect of the obligation to restore the disputed object to the burned land of approximately 1,000 hectares for Rp. 251,765,250,000.00 (two hundred fifty-one billion seven hundred sixty-five million two hundred fifty-thousand rupiahs)). The Defendant was also sentenced to pay forced money (dwangsom) in the amount of Rp 5,000,000 (five million rupiahs) per day for the delay in carrying out the decision. Consequently, as a losing party, PT. Kallista Alam was sentenced to pay a case fee of Rp10,946,000.00 (ten million nine hundred forty-six thousand rupiahs).

The legal issues of the Tripa Peat Swamp Karhutla Case have been attracting the author's interest that in the civil lawsuit environmental dispute between the Ministry of Environment and Forestry v. PT. The Kallista Alam needs to be reviewed in a case law analysis on the implementation of the Government's Lawsuit as referred to in Article 90 paragraph (1) of Law Number 32 Year 2009 concerning Environmental Protection and Management (abbreviated as UUPPLH 2009), and regarding corporate civil liability in the practice of case law in Indonesia.

Based on the background description and legal issues in the Tripa Peat Swamp Karhutla Case, the formulation of the legal problem is first, what are the reasons and legal considerations as a judge's ratio decidendi? And second, how are the legal rules created in the environmental civil decision between the Ministry of Environment and Forestry-RI v. PT Kallista Alam.

Research Method

This study is normative legal research. Since the research focused on examining the application of rules or norms in positive law, it is going through three types of research approaches, those are, statutory approach, conceptual approach, and case approach as case law.

The statutory approach is carried out by examining the laws and regulations in the scope of environmental law (UUPPLH 2009) concerning the Government's legal rights and corporate civil liability which causes pollution and/or environmental damage resulting in environmental losses. In the context of environmental law enforcement in the field of civilization against the Tripa Peat Swamp Karhutla Case.

Conceptual approach, shifting from the views and doctrines that develop in the science of law. The concept of law can be found in legislation and court decisions, mainly to find legal understanding, legal concepts, legal principles that are relevant to the Government's legal rights and corporate civil liability in

environmental law enforcement.2

The case approach is carried out by examining cases that are related to legal issues and have become court decisions. The court decision used in case approach must have a permanent legal force which has a focus on studies on ratio decidendi and the rationale for the decision or reasoning that means the reasons and legal considerations of judges on the court to arrive at a decision both for judicial practise (case law) and academic studies as a reference for the preparation of arguments in solving legal issues. The focus is on the study as Case Law on the Decision of the Meulaboh District Court Number 12/Pdt.G/2012/PN-MBO dated January 8, 2014, jo. Banda Aceh District Court Decision Number 50/PDT/2014/PT.BNA, dated August 15, 2014, jo. The decision of the Supreme Court Number 651 K/Pdt/2015 dated August 28, 2015, which has permanent legal force (inkracht van gewijsde), and jo. The decision of the Supreme Court Number 1 PK/PDT/2017 dated April 18, 2017.

The library research on primary legal materials is the preceding step in this study that is legislation in the field of environmental law and court decisions, which are relevant to the legal issues of the Tripa Peat Swamp Karhutla Case. Besides, secondary legal materials, in the form of legal textbooks, legal journals and research results that are relevant to the legal issues of the research object, are then analyzed and discussed in-depth and qualitatively, and provide conclusions.3

Result and Discussion

The Description of Position Case of Tripa Swamp Peatland Forest Area

The Rawa Tripa peatland forest area is approximately 1,605 hectares managed by PT. Kallista Alam, located in Pulo Kruet Village, Darul Makmur District, Nagan Raya Regency, Aceh Province which is part of the Cultivation Plantation Business License granted by the Governor of Aceh Number 525/BP2T/5322/2011 dated August 25, 2011.

All cultivation plantations that are managed by PT. Kallista Alam covering an area of 1,605 hectares is located within the Leuser Ecosystem Zone (KEL). An area in the KEL status is designated as a conservation area, meaning that it is protected by law based on Presidential Decree Number 3 of 1998 concerning Leuser Ecosystem Zone, the boundaries of which are determined by the Minister of Forestry based on Decree Number 190/Kpts-II/2001 dated June 29, 2001, concerning Ratification of the Leuser Ecosystem Boundary in Aceh Province. Then, PT. Kallista Alam has cleared peatlands according to the Aceh Governor's Business License for a 1,605-hectare oil palm cultivation plantation, by burning based on hotspot data sourced from the MODIS satellite released by the National Aeronautics

[2] Pri Pambudi Teguh and Ismail Rumadan, 'Execution of Environmental Civil Court Decisions in Indonesia', *South Florida Journal of Development*, 3.3 (2022), 3286–3301 <https://doi.org/10.46932/sfjdv3n3-020>.
[3] Lalu Aria and Nata Kusuma, 'Environmental Disputes Without Protection of Strict Liability Principles: Again, Law On Job Creation', 7.1 (2022), 1–13 <https://doi.org/10.23917/laj.v7i1.699>.

and Space Agency (NASA) for the February period until June 2012.[4]

Defendants' actions, PT. Kallista Alam opened the Rawa Tripa peatland for cultivation as oil palm plantations by burning it in an environmental civil lawsuit between the Ministry of Environment and Forestry v. PT. Kallista Alam has fulfilled the qualifications of the act as an unlawful act (onrechtmatige daad) based on the provisions of Article 90 paragraph (1) of the 2009 UUPPLH and Article 1365 of the Civil Code as referred to in the Meulaboh District Court Decision which has permanent legal force (inkracht van gewijsde) Number 12/Pdt.G/2012/PN-MBO on January 8, 2014 jo. Banda Aceh District Court Decision Number 50/PDT/2014/PT.BNA, dated August 15, 2014, jo. The decision of the Supreme Court Number 651 K/Pdt/2015 dated August 28, 2015; and jo. The decision of the Supreme Court Number 1 PK/PDT/2017 dated April 18, 2017.

The Relevance of Legal Theory, Doctrine of Environmental Law

Regarding the Tripa Peatland Forest Karhutla Case and environmental civil lawsuit case between the Ministry of Environment and Forestry v. PT Kallista Alam, it is necessary to put forward several legal theories, doctrines, beliefs or principles of law as a theoretical framework for its legal analysis, which can be explored below.

Unlawful Acts or Illicit Acts are based on the provisions of Article 1365 of the Civil Code, which formulates that "any violation of law that results in loss to another person can be the basis for a cause of action to compensate the person for the loss."

Rosa Agustina stated the element of violating or against the law in the original 1365 Civil Code formulation, divided into several categories, including those are contrary to the individual rights of others. Individual rights are known as (a) Absolute material rights, such as property rights; (b) Personal rights, such as personal freedom; (c) Privileges, for example, the right to use rental goods, contrary to the legal obligations of the offender. It means as a whole consisting of written and unwritten laws, an act or omission that is contrary to the legal obligations of the offender. It is stated as a behaviour that is contrary to the provisions of the law, contrary to decency as a social norm in society as an unwritten form of regulation, contrary to propriety, thoroughness and caution, which is included in this category, acts that harm others without proper interests, acts that are not useful, which cause danger to others based on reasonable thinking need to be considered.[5]

The principle of strict liability is accommodated in the 2009 PPLH Law in the expressi verbis formulation of Article 88, which stipulates that "Every person whose

[4] Akhmad Zamroni, Wahyu Endah Christiani Putri, and Saurina Tua Sagala, 'Evaluation of Corporate Social Responsibility Programs for Local Communities around Mining Companies in Kalimantan, Indonesia: Environmental, Economic, and Social Perspectives', *Sustinere: Journal of Environment and Sustainability*, 6.1 (2022), 66–78 <https://doi.org/10.22515/sustinerejes.v6i1.195>.

[5] Laila Refiana Said and others, 'The Impact of Perceived Benefits of Corporate Social Responsibility Initiatives on Wetland Farming Communities in Indonesia', *WSEAS Transactions on Business and Economics*, 19 (2022), 402–13 <https://doi.org/10.37394/23207.2022.19.36>.

actions, businesses and/or activities use hazardous and toxic materials (B3), produce and/or manage B3 waste, and/or that pose a severe threat to the environment shall be held responsible solely for losses incurred without the need for proof of the error.

Then, the Elucidation of Article 88 explains, "What is meant by "strict liability" is the element of error does not need to be proven by the plaintiff as the basis for payment of compensation". Thus, according to researchers' view that the provisions of Article 88 of the 2009 PPLH Law are lex specialis in the case of environmental disputes regarding unlawful acts, which are generally determined by Article 1365 of the Civil Code as lex generalis.

According to Vivienne Harpwood, in Civil Law, the principle of strict liability is a type of civil liability. Civil Liability in the context of environmental law enforcement is a civil law instrument to obtain compensation and costs for environmental recovery due to environmental pollution and or damage. Two types of civil liability are known, first, liability which requires proof of an element of error that results in a loss (fault-based liability); and second, strict liability, that is liability without having to prove the existence of an element of error, in which liability and compensation appear immediately after the act is committed (Okumu, Olweny, & Muturi, 2022).

The second type of liability, strict liability can be seen as equivalent to the principle of absolute liability (strict liability-risico aansprakelijkheid) in the field of civil law which is also adopted in Article 35 of the 2009 PPLH Law. Deeds, without questioning the defendant's mistake. In judicial practice, the principle of "strict liability" is commonly implemented in certain types of situations (casuistic), including "types of the situation" for the application of "strict liability" are "extra-hazardous activities" which according to the provisions of Article 35 of the PPLH Law 2009 covers environmental disputes as a result of business activities that have a large and significant impact on the environment (Oladayo, 2021).

In this context, Vivienne Harpwood reiterated her view that "Tort is not the only means that someone who suffers as a result of a wrongful act may receive compensation. Other sources include the social security system, the industrial injuries scheme, the criminal injuries compensation system, charitable gifts and first-party insurance." Meaning, acts against the law not only do wrong actions, and that result in losses and must compensate the losses in the form of compensation, but other sources of illegal or illegal actions include social security systems. These bad industrial intentions cause damage, compensation for bad crimes, giving mild sanctions to violators and others.

The main problem in applying the principle of strict liability, according to Andri G. Wibisana is how a new concept of legal liability in Indonesia, that is the principle of strict liability can be integrated into the applicable civil law system based on error or schuld so that the application of the principle of strict liability in Indonesia in the case of environmental pollution can run effectively. According to the applicable civil law, a system to sue for compensation or environmental restoration costs based on Article 1365 of the Civil Code on Unlawful Acts (PMH),

which contains the concept of liability based on error or liability based on fault. By relying on the concept of accountability based on mistakes, the enforcement of environmental law through the courts is often hampered. That is because the injured party must meet the evidentiary requirements. The principle of liability based on fault contains a process that incriminates the injured party.

Andri G. Wibisana explained that in environmental disputes, most disadvantaged parties often did not understand the behaviour of modern technology so that they were always in a weak position. If the principle of strict liability is used, then the element of error, both intentional and negligent, does not need to be proven by the polluter to require him to pay compensation to the injured party. Provisions regarding the principle of strict liability or absolute responsibility in Indonesia, have been regulated in Article 21 of Law Number 4 of 1982 concerning Principles of Environmental Management.

In environmental law enforcement, Andri G. Wibisana elaborates in detail the difference between Violating or Unlawful Acts (PMH) and Strict Liability in the context of environmental law enforcement in Indonesia. According to him, strict liability is a concept of civil liability that does not require mistakes of the defendant but has caused losses to the plaintiff. In the 2009 PPLH Law, this condition is intended for every person whose actions, businesses and/or activities use Hazardous and Toxic Materials (B3), produce and/or manage B3 waste, and/or that pose a severe threat to the environment.

According to Andri G. Wibisana, that the concept in Article 88 of the UUPPLH is very manageable, so suing with this concept, the plaintiff does not need to prove whether the company violated the law resulting in environmental damage or not; And see if there has been environmental damage due to the company's operations. Regarding the company's practices, whether breaking the law or not, it has nothing to do.

Furthermore, Andri G. Wibisana stressed that many of the concepts were not understood by academics and practitioners of environmental law in Indonesia so that strict liability lawsuits are often mixed with PMH claims. In contrast to strict liability, in the PMH lawsuit, the plaintiff must first prove that there is an unlawful act by the company in carrying out its business. After that, only due to environmental damage. In various environmental dispute cases, the plaintiff stated that the type of the lawsuit was a strict liability, but in the petitum, the plaintiff instead requested that the court declare the defendant proven to have committed an unlawful act. This is so, according to Andri G. Wibisana as an example of logic that confuses strict liability with illegal acts.

Also known as the doctrine of Res Ipsa Loquitur or the thing speaks for itself, which is how when the court concludes that a case is negligent, but for the perpetrator or the defendant is not negligence or error resulting from his actions, a condition as referred to as res ipsa loquitur. Case criteria that are in line with the doctrine of Res Ipsa Loquitur include are the event is difficult to explain. The cause is unknown, events will not occur if done in a manner and proper care; and

perpetrators or defendants must be in a state of control of the situation.

According to Vivienne Harpwood's explanation, the validity of res ipsa loquitur principle in a case of environmental dispute by taking the example of Ratcliffe v. Plymouth, it was suggested that "Res Ipsa Loquitur is not a principle of law; it does not relate to or raise any presumption. It is merely a guide to help identify when a prima facie case is abeing made out. When expert or factual evidence has been called on both sides at a trial, its usefulness will normally have long and exhausted."

The principle of res ipsa loquitur as a doctrine of the responsibility model that frees the plaintiff from the obligation to prove the element of the defendant's error, which according to Kolosa and Meyer as in Imamulhadi mentions as a concept that "this concept of liability, requires for specific factors." Include (a) a device in this prior exclusive control of the defendant, (b) an event that would not have happened in the exercise of due care, (c) no voluntary act by plaintiff contributing to the event, and (d) the event is more readily explained by the defendant than the plaintiff.

The Supreme Court through the judicial policy in the Decree of the Chief Justice of the Supreme Court dated February 22, 2013, Number 36/KMA/SK/II/2013 concerning the Enforcement of Environmental Case Handling Guidelines has guided how judges should handle environmental cases.

In examining and adjudicating environmental cases, the judge must first understand the principles of environmental policy, which include: (1) Substantive legal principles, (2) Process principles of the process), and (3) Equitable Principles.

Substantive legal principles, including four principles that need to be the basis for judges' consideration in examining and adjudicating an environmental case, namely (a) the Principles of Prevention of Harm, (b) the Precautionary Principle, (c) the Polluter Pays Principle, and (d) the Principle of Sustainable Development.

The phrase "ratio decidendi" court decisions or judges' decisions means "legal reasons and considerations that form the basis of decisions" by judges who are well known in countries with a common law system tradition. According to Sidharta that the term "ratio decidendi" means "the reasons for the decision", and further Sidharta quotes the opinion of Michael Zander that the ratio decidendi is "A proposition of law which decides the case, in the light or the context of the material facts."

Ratio Decidendi Decision of the Meulaboh District Court Number 12/Pdt.G/2012/PN-MBO

The Panel of Judges considered the facts revealed at the trial as Legal Facts and the application of the Proof Law, finally concluded (summa summarum) that the defendant PT. Kallista Alam has been proven not to have the tools and means of combating fire, even though fires have repeatedly occurred on the disputed land, so PT Kallista Alam is proven to want a way of burning in clearing land.

Likewise, the consideration of PT Kallista Alam is proven to have let her land burn and burn her land. On the contrary, the defendant could not prove the argument of his rebuttal about who burned his land, while the defendant's witness was never presented at the trial and based on the facts in the field on the results of the local inspection, the defendant of PT. Kallista Alam is proven to have burned down the Tripa Peat Swamp Forest land which has occurred many times from 2009 to 2012.

Based on these legal reasons and considerations, the panel of judges granted the petitum about the defendant committing unlawful acts, with the verdict "Stating that the defendant had committed an Unlawful Act and sentenced the defendant to pay material damages in cash to the Plaintiff through the State Treasury account of Rp.114,303,419,000,00 (one hundred fourteen billion three hundred three million four hundred nineteen thousand rupiahs)". Moreover, the verdict "Ordered the Defendant not to plant on peatlands that had burned approximately 1,000 hectares in the business license area based on the Aceh Governor's License dated August 25, 2011/25, Ramadhan 1432 H Number 525/BP2T/5322/2011 covering 1,605 hectares located in Pulo Kruet Village, Darul Makmur District, Nagan Raya Regency, Aceh Province for the cultivation of oil palm plantations.

Based on a series of the constellation of facts and the application of the Proving Law, the conclusion is obtained as a Legal Fact, in the case of the claim (petitum) of the LHK-RI Ministry of Plaintiffs regarding the costs of land restoration granted, because it has been based on the calculations of experts. Then, the defendant PT. Kallista Alam has been proven guilty of burning the Tripa Peat Swamp land which causes environmental damage. Then, the defendant PT. Kallista Alam was sentenced to pay the cost of environmental restoration, with the verdict "Punish Defendant for carrying out environmental restoration measures on the burned land of approximately 1000 hectares at the cost of Rp.251,765,250,000.00 (two hundred fifty-one billion seven hundred sixty-five million two hundred and fifty thousand rupiahs) so that the land can be re-functioned according to the applicable laws and regulations".

Based on legal reasons, the defendant PT. Kallista Alam was also sentenced to fulfil the obligation to commit individual acts, and the defendant was sentenced to pay forced money (dwangsom), with rage, "Punishing the Defendant to pay forced money (dwangsom) amounting to Rp5,000,000.00 (five million rupiahs) per day for delay in carrying out the verdict in this case".

The Plaintiff's Lawsuit the Ministry of LHK-RI has been granted in part, so Defendant PT. Kallista Alam as the losing party must be punished by paying the court fee, with the rage, "Punishing the Defendant to pay the court fee incurred in this case amounting to Rp10,946,000.00 (ten million nine hundred forty-six thousand rupiahs)."

Against the Reasons for Cassation Memory of PT. Kallista Alam

Considering that the reasons in the Cassation Memory of the Cassation Appellant (PT. Kallista Alam) on October 6, 2014, the Supreme Court believes that the reasons for the appeal are not justified. That is because after examining the cassation memory on October 6, 2014, and the answers the memory of October 30, 2014, was connected with judex facti considerations, in this case, the Decision of the Banda Aceh High Court that corrected the Meulaboh District Court's Decision was not wrong to apply the law with the following reasons and considerations.6

That the Cassation/Defendant Petitioner has done Unlawful Acts so that which causes land fires that cause environmental losses, there is an element of error in the Defendant, at least negligence or carelessness in conducting business, so that it has caused land fires in the area of the Defendant's permit/Cassation Applicant.7

Judex Facti's consideration that is not participating in the regional Government filed a lawsuit in a quo case did not result in a lack of legal action, so Judex Facti's legal considerations were correct and correct. Even though Article 90 paragraph (1) of Law Number 32 Year 2009 uses the words "government and regional government" it does not mean that only the government or regional government which filed a lawsuit made a claim less due to the Plaintiffs because filing a lawsuit is a matter of authority very much depends on the owner of that authority to use his authority or not. This depends on governance and legal and environmental awareness of the holder of authority to carry out the responsibilities given by law to him. After all, Indonesia is in the form of a unitary state that gives power to the Government to control and manage natural resources for the greatest prosperity of the people. Some government power is given to regional governments through a policy of decentralization or autonomy. Suppose the regional Government, as the recipient of decentralization or autonomy, does not use the authority granted by the Government. In that case, the Government with or without the regional Government has the authority to take all legal measures against those who have caused damage or pollution to the environment or the deterioration of the quality of natural resources. The Government has the responsibility under Law Number 32 of 2009 to ensure that the behaviour of every legal subject in the territory of Indonesia is in line or consistent with sustainable development.

Judex Facti's consideration that is not taking part in the lawsuit by the Aceh Governor did not cause the Defendants to be less appropriate and correct considerations, because the Aceh Governor as the licensing official was not related to the Unlawful Act (PMH) alleged to the Defendant. The granting of a permit implies that the action of the licensee is valid as long as it complies with applicable

[6] Adi Wijayanto, Hatta Acarya Wiraraja, and Siti Aminah Idris, 'Forest Fire and Environmental Damage: The Indonesian Legal Policy and Law Enforcement', *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang*, 8.1 (2022), 105–32 <https://doi.org/https://doi.org/10.15294/ulj.v7i1.52812>.

[7] Zaid Zaid, 'The Unicorn Is a Myth No More: A Ratio Decidendi Analysis on First Official Predatory Pricing Case in Indonesia', *Jurnal Penegakan Hukum Dan Keadilan*, 3.1 (2022), 48–59 <https://doi.org/10.18196/jphk.v3i1.13099>.

laws. If the permit recipient has committed an unlawful act that has nothing to do with the licensor.

Judex Facti has considered the area of land fires to be appropriately and correctly based on local examination and expert statements and witness statements. Therefore, the appeal of the Cassation Appellant on the matter of the area of the land fire is an Assessment of Proof Results that cannot be considered in the cassation examination. The Petitioners' petition to determine the extent of land fires must use measurements by the Office of the National Land Agency (BPN) that cannot be accepted because a quo problem is not a dispute over land rights that do require measurement by the Office of the National Land Agency (BPN);

Concerning objections to the calculation of environmental compensation and the cost of land restoration cannot be justified, because the amount of compensation has been referred to the Minister of the Environment Regulation No. 13 of 2011 which has been made by government agencies authorized in the field of policy formulation and coordination of environmental implementation and with involving environmental experts. Determining environmental compensation is not the same as determining material compensation in other cases where the amount or amount of the loss can be measured by the market price of a product or object such as land and house prices or real medical costs incurred by a doctor or a hospital. The environment and natural resources contained in it as the creation of God Almighty have a very complex ecological function that has many benefits for humans and that humans also know not all benefits. The complexity and benefits of the environment and the natural resources contained therein can be understood and explained by environmental experts and by local wisdom. Therefore, determining the value of money or the price of damage to natural resources can be assisted with expert statements and knowledge of judges obtained from local examinations.8 Once the environment is damaged or decreased in quality and quantity, then the recovery efforts undertaken by humans cannot fully restore the environment to its original state. Humans are not able to create natural resources because the creation is the power of God Almighty. Therefore, in determining the cause and effect between the Defendant's activities and the occurrence of land fires, between land fires and environmental losses arising at this time and their consequences in the future it must be based on the doctrine in dubio pro natura. It implies that if faced within the uncertainty of cause and effect and the amount of compensation, decision-makers, both in the field of executive power and judges in civil cases and environmental administration must give consideration or judgment that prioritizes the interests of environmental protection and restoration.9 The use of the doctrine of "in dubio pro natura" in settlement of civil and administrative environmental cases is not an absurd consideration, as it turns out that the Indonesian legal system has recognized this doctrine based on the principles listed

[8] Mauro Lourenco, Stephan Woodborne, and Jennifer M Fitchett, 'Fire Regime of Peatlands in the Angolan Highlands', *Environmental Monitoring and Assessment*, 2023 <https://doi.org/10.1007/s10661-022-10704-6>.
[9] Sudiyana and D. P.B. Asri, 'Application of the Corporate Viel Piercing Principle in the Company for Forest and Land Burning', *IOP Conference Series: Earth and Environmental Science*, 1030.1 (2022) <https://doi.org/10.1088/1755-1315/1030/1/012019>.

in Article 2 of Law Number 32 Year 2009 namely precautionary, environmental equity (biodiversity) and polluter pays principle. Therefore, the appeal of the Cassation Appellant concerning the question of cause and effect between the Cassation Appellant's activities and the environmental losses incurred as well as the environmental compensation that must be borne by the Appellant must be rejected.

Considering, that based on the above considerations, it turns out that the Judex Facti Decision/Banda Aceh High Court, in this case, is not contrary to law, then the appeal request submitted by the Cassation Applicant of PT. KALLISTA ALAM, it must be rejected. Considering that the petition for cassation from the Petitioner was rejected, and the Petitioner was on the losing side. Thus, the Petitioner was sentenced to pay the court fee in this cassation level.

The Ratio decidendi of Judges in Civil Decisions between the State (KLHK-RI) v. PT Kallista Alam as the reasons and considerations in the Meulaboh District Court Decision on January 8, 2014, Number 12/Pdt.G/2012/PN. The MBO has granted the plaintiff's claim in part, and then at the appellate level, the amendment was just about legal considerations and the arrangement of his verdict by the Banda Aceh High Court with Decision Number 50/PDT/2014/PT.BNA, dated August 15, 2014.

In the end, the ratio of judges' verdicts at the first instance and appeals as judex facti examining and adjudicating cases of environmental civil lawsuits culminated in the rule of law in the Supreme Court Decree No. 651 K/Pdt/2015 dated August 28, 2015, as Judex Juris, that the Supreme Court justifies the judex facti decision in terms of applying the law based on the assessment that the judex facti decision is correct and does not conflict with the law, then the judex facti decision is not wrong to apply the law. Based on the Supreme Court Decision, the decision has a permanent legal force.

Against the Supreme Court's Decision Number 651 K/Pdt/2015 dated August 28, 2015, it turned out that later PT. Kallista Alam submitted a legal review (PK) to the Supreme Court. As a result, the Supreme Court Decision Number 1 PK/PDT/2017 dated April 18, 2017, has rejected the PK request from PT Kallista Alam. Based on the reason that the legal considerations of the Judex Facti (District Court and High Court) and Judex Juris (Cassation) verdicts were found not to have found a judge's error or a real mistake both in evaluating the legal facts and applying the law, even though there are three pieces of evidence, PK-1. PK-2 and PK-3 are novum in nature, but not decisive evidence in this case.

Conclusion

Based on the results of the juridical discussion and analysis mentioned above, it can be concluded (summa summarum) that the Ratio Decidendi or the rationale for the decision is the basic reason and legal considerations for the judge in a decision. Ratio decidendi of court decisions examining and adjudicating environmental civil cases between the Plaintiffs of the Ministry of Environment and

Forestry v. Defendant of PT. Kallista Alam by Judex facti (Banda Aceh High Court and Meulaboh District Court) was granted in part and corrected in terms of legal considerations and decision making. The Defendant was proven guilty of unlawful acts, causing land fires which caused environmental losses in Rawa Tripa peatlands area within the business license area of PT Kallista Alam; The Defendant was instructed not to plant on burned peatlands covering an area of approximately 1,000 hectares within the Business License area based on the Aceh Governor's License dated August 25, 2011 Number 525/BP2T/5322/2011 covering 1,605 hectares located in the Village Pulo Kruet, Darul Makmur District, Nagan Raya Regency, Aceh Province for the cultivation of oil palm plantations; Defendants are sentenced to carry out environmental restoration measures on the burned land for an area of approximately 1,000 hectares at a cost of Rp 251,765,250,000.00 (two hundred fifty one billion seven hundred sixty five million two hundred fifty thousand rupiah) so that the land can be re-functioned as; Defendants were sentenced to pay forced money (dwangsom) in the amount of Rp 5,000,000 (five million rupiahs) per day for delay in implementing the decision in this case, Environmental Agencies/Services/Governments of West Aceh Regency and Nagan Raya Regency are instructed to take "certain actions" to supervise, carry out environmental restoration, because the location of land covers 2 (two) West Aceh District and Nagan Raya District, Aceh Province; and Confiscation of collateral placed on land, buildings and plants on it, locally located in Pulo Kruet Village, Alue Bateng Brok, Darul Makmur District, West Aceh Regency with Certificate of Cultivation Right Number 27 with an area of 5,769.

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