

Liability of PT. Pertamina Towards Fire Victims in Plumpang Reviewed Based on Civil Law Perspective

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Abstrak

Indonesia is one of the countries with the largest population in the world. Economic factors are also the cause of the large number of Indonesian people, especially in the Capital City, who occupy illegal government-owned land to be used as residences, one of which is the land around PT. Pertamina. The people do not care about their own safety in order to have a place to live. This study aims to determine the form of responsibility for the occurrence of fires in Plumpang. This type of research is library research, namely research that takes data sources obtained through research of books related to the discussion of the issues to be discussed. The author also uses library data through books, books, articles, and journals that still have relevance to the topic of the problem to be discussed. Data collection method is done through descriptive method. The results obtained from this study are the demands of residents against PT. Pertamina is compensation for losses suffered by victims and knows the form of accountability provided by PT. Pertamina to the families of the victims.

Keywords: Population, Illegal Land, Government, Compensation



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INTRODUCTION

Indonesia is one of the countries that has the highest population level in the world. This country located in Southeast Asia has many roles in the international arena, one of which is in the economic field. The economy in Indonesia is supported by State-Owned Enterprises (BUMN) which contribute to the development of the national economy from the consumption and investment side, through operational expenses and capital expenditures. BUMN has an income of Rp. 1,983T (one thousand nine hundred eighty three trillion) or equivalent to 99% (ninety nine percent) of APBN revenues. It is the national economy from the consumption and investment side that will increase the existing demand and support the national economic cycle. Pertamina Company is one of the largest state-owned enterprises active in the upstream and downstream sectors in the oil and gas sector. Pertamina has many benefits in the country's development sector, but Pertamina has experienced several fire accidents. In 2009 there was the first fire at the Plumpang Depot, In 2021 there was a second fire at the Balongan Refinery, in the same year the third fire occurred at the Cilacap Refinery, in 2022 the fourth fire occurred at the Balikpapan Refinery and the last one occurred again at the Plumpang Depo. An intense fire occurred at one of Pertamina's Plumpang BBM Depots on Friday, March 3, 2023 which resulted in a number of injuries and even deaths. It is suspected that the fire could have occurred due to volatile fuel oil (BBM). One of the residents also gave a statement that a few minutes before the incident, there was a sound of thunder which was indeed raining at that time. Until finally, the residents concluded that the lightning that appeared at the same time as fuel was filled could cause an explosion to occur.

It is believed that many of the victims who fell in the fire incident were local residents who lived close to the Plumpang BBM Depot. This is because the absence of a safe zone or buffer zone is one of the reasons for the large number of victims falling in this incident. It was also said that residents lived too close to the location of the fire, which was only 28 meters. Even though ideally the distance between the fuel depot or terminal and residential areas is at least 1 kilometer. Residents whose families were victims in this incident did not remain silent. They asked Pertamina to be responsible for the losses that befell them. The victims said that this incident was not a natural disaster, therefore Pertamina must be responsible for the losses they suffered. In fact, the land occupied by local residents is said to be illegal land that does not belong to them. Because based on history, Pertamina originally bought the land to build the Pertamina Plumpang Depot in 1971 and at that time the land was still vacant. Until then in 1980 many people's houses were built around it, then in 2023 people's houses have started to be attached to the dividing wall.

The issue of illegal land is still being debated until it has spread to political issues. This then dragged down the name of the former governor of DKI Jakarta, namely Anies Baswedan, who gave a Building Permit (IMB) for the area and then also dragged Mr. Joko Widodo who, when he served as Governor of DKI Jakarta, gave KTPs to local residents or they often called themselves Land Residents. Red. The residents of Tanah Merah themselves have demanded that Pertamina be held accountable, even though their own land is still said to be illegal. Not a few residents of Tanah Merah who were victims of this fire incident lost their families, relatives, homes and other property they owned. Of course, this event was not an event that they thought would happen, because every human being definitely does not expect bad things to happen to them. The result of the discussion that has been discussed by the author is insurance that can provide protection to fire victims, including; Fire insurance, home insurance. However, in the event of this fire, the insurance that is owned can only be used if it has been proven that this fire incident was indeed caused by negligence on the part of PT. Pertamina. Therefore it is important for every human being to have insurance, both health insurance and insurance for every object they own, for example, vehicles and home ownership for each individual. With this incident, it is hoped that residents will pay more attention to having insurance so that if a similar event occurs they will not have as big a loss as if they did not have insurance.

Problem Formulation: What is the victim's claim to PT. PERTAMINA after the fire occurred at the oil refinery owned by PT. PERTAMINA in Plumpang? What is the form of accountability of PT. PERTAMINA towards residents around Plumpang fire victims? Is there any type of insurance that can provide compensation (indemnity) for the Plumpang fire victims?

RESEARCH METHODS

This type of research in this matter uses the type of normative legal research. Normative legal research is carried out by examining library materials or secondary materials. So that when conducting this research, data search was obtained from library materials. Thus, the author will conduct a study on the accountability of PT. Pertamina Against Fire Victims in Plumpang. This research uses the nature of descriptive research, namely in the form of research that describes the phenomena of the problems in this study and is basically intended to provide as accurate data as possible about humans, their conditions and symptoms. This research approach uses a statutory approach and a case approach. The statutory approach is an approach taken by examining all laws and regulations that are related to the legal issues being handled.

In this study, the authors used secondary data types, secondary data types are data obtained from the results of a literature review or on various literature or library materials related to problems or research materials which are often called legal materials. Secondary data in this study consisted of: Primary legal materials, namely materials originating from laws and regulations related to the research being conducted.

1. Primary legal materials, namely materials originating from laws and regulations related to the research being conducted.
2. Secondary legal materials, namely materials sourced from literature books, journals and scientific articles that are related to the accountability of PT. Pertamina Against Fire Victims in Plumpang

Data Collection Technique

The data collection technique that will be carried out is through library research. So, the data will be searched through literature studies with records that the data collected must be valid data and can be trusted for its truth. Because they collected data through library research, the researchers had no contact with the community and would not conduct interviews, observations, and would not make questionnaires to solicit opinions from the public. After the data is collected, the data will be processed using data systematic methods, namely by selecting and classifying data. Data will be selected and separated, data that will be collected and used in research is data that can be said to be valid and has clearly proven truth. Data collected from various sources will also be processed and combined, then concluded to become one data that will be used in research. Data analysis techniques will be used with the method of qualitative analysis techniques. Qualitative analysis techniques are analytical techniques used to process data that is not a number.

RESEARCH RESULTS AND DISCUSSION

Claims of Plumpang Fire Victims to PT. Pertamina

As we know, there was a major fire incident at one of Pertamina's Plumpang BBM Depots on Friday, March 3, 2023 which caused many losses, both material and immaterial. The material losses incurred are the victim's property which can be in the form of a victim's house or vehicle that was also struck by the fire. Immaterial losses incurred are losses received at a later date. Not a few injured victims and fatalities were affected by this great fire, so as a result of these casualties, many of the victims' families filed lawsuits against PT. Pertamina to immediately take responsibility for this disaster. There are many conjectures that explain the reasons for the fire to occur, the first reason is the volatile fuel oil, there are other allegations which say that this fire occurred due to the negligence of the existing workers. However, after further confirmation, the main director of PT. Pertamina said that the point of fire did not start from the fuel tank, but the inlet pipe. The inlet pipe is a channel that distributes fuel to the tank.

Mohamad Huda who is the chairman of the United Tanah Merah Communication Forum (FKTMB) stated that one of the victims' demands on PT. Pertamina namely that PT. Pertamina helped pay for the treatment of a number of people who were victims of this fire incident. Huda revealed that apart from asking for responsibility for paying for the treatment of a number of victims, the victims also sued PT. Pertamina to restore the Tanah Merah Residents' settlement to how it was before the fire incident occurred. More specifically, the victim asked PT. Pertamina to be able to rehabilitate residents' houses damaged by fire. Apart from the two demands already mentioned, the residents of Tanah Merah also made other demands on PT. Pertamina, namely that PT. Pertamina is relocating the Pertamina Plumpang Depot to a place that is considered much safer from the city center and also far from residential areas.

This aims to reduce the risk of victims if a similar incident occurs again. In addition to the above demands that must be carried out by PT. Pertamina after the incident of this fire, residents of Tanah Merah who became victims and are currently evacuating to a safer place because their homes were damaged also sued PT. Pertamina to provide food supplies for victims who are currently displaced. This was stated by one of the victims, he said that there were some residents who took refuge in refugee camps who needed food raw materials, clothing and other things for affected residents. Another demand is that PT. Pertamina provides compensation to the heirs or families of victims who have died as a result of this fire incident. Even PT. Pertamina is also required to provide psychological assistance to victims who experience trauma after this incident.

If we look back at the beginning of the year the Pertamina Plumpang Depot was founded in 1971 the land used by PT. Pertamina is an empty land. So that the initial construction of the Pertamina Plumpang Depot was not close to residential areas. Until then in 1980 residents began to build their settlements in the area around the Pertamina Plumpang Depot. So that it can be said that residents occupy land illegally. As time went on, more and more settlements were built and in 2003 the settlements that were built had started to stick to the dividing walls. So it can also be said that the residents who were victims of this incident were not entirely the fault of PT. Pertamina for building the Pertamina Plumpang Depot around residential areas. Because at the beginning of construction this place was an empty land.

However, because the residents who live around the location or they often call themselves Tanah Merah residents already have an IMB or Building Permit from the Governor of DKI Jakarta, namely Mr. Anies Baswedan, so they feel the Pertamina Plumpang Depot was in the wrong for establishing a location around a residential area. Therefore, residents dared to make demands on PT. Pertamina to relocate the Pertamina Plumpang Depot to a safe place and far from residential areas. Clear regulations regarding IMB or Building Permits are clearly written in; Law Number 28 of 2002 concerning Buildings, Law Number 26 of 2007 concerning Spatial Planning, Government Regulation Number 36 of 2005 concerning Implementation Regulations of Law Number 28 of 2002 concerning Buildings.

Residents who were victims and suffered losses as a result of this great fire incident really pressed their demands, this was because PT. Pertamina has not fully complied with the demands of the citizens (victims). In this event the Victims have legal standing to file a lawsuit through criminal and civil channels. Legal standing is a situation where a person or a party can be said to fulfill a requirement and has the right to submit an application in a dispute or case before the Constitutional Court. Lawsuits that residents filed aside from ensuring that their legal rights are fulfilled are also in accordance with civil law which regulates compensation for acts against the law. That is, an act committed by one party or more, both individuals and corporations, which has resulted in the loss of the other party due to negligence (Article 1365, 1366 BW/KUHPerdata).

Form of Accountability PT. Pertamina

The burning incident of the Pertamina Plumpang Depot is not the first time. The first fire at the Pertamina Plumpang Depot occurred on Sunday (18/1/2009). The fire 14 years ago was caused by human factors or human error. Susno Duadji, who at that time served as Head of the Criminal Investigation Agency (Bareskrim) of the National Police, said that the fire that caused the fire originated from friction between the measuring slot and the BBM sampling device. The 2009 Pertamina Plumpang Depot fire incident attracted the attention of Vice President at that time Jusuf Kalla. Jusuf Kalla said that the incident was a big warning to PT Pertamina to maintain safety and security standards. However, it is very unfortunate that the

fire incident repeated itself. The Pertamina Plumpang Depot fire caused many injuries to victims who died. As a result, not a few residents who were victims filed a lawsuit against PT. Pertamina to immediately take responsibility for losses that befell residents, both material and immaterial losses. For the demands that keep coming to PT. Pertamina, then PT. Pertamina must immediately take action to hold accountable the citizens who were victims of this fire incident.

Legally, the term criminal liability is often mentioned, the meaning of criminal responsibility itself is regulated in Article 44 paragraph 1 of the Criminal Code, namely: Whoever commits an act for which he cannot be held accountable because his soul is disabled or impaired due to an illness is not punished. One of the experts, Sugeng Istanto, also expressed his opinion regarding the meaning of accountability. Sugeng Istanto said that accountability means an obligation to provide an answer which is a calculation of all that has happened and has an obligation to provide recovery for losses that may be incurred. The form of accountability given by PT. Pertamina, as a result of the large fire incident which caused many injured victims and even victims who died, is one of them providing facilities to local residents whose houses were burned down as a result of this incident to occupy rented houses for 3 months free of charge.

Apart from giving residents the facility to contract free of charge, PT. Pertamina also gives some pocket money to the residents which will be used to buy household needs that are the needs of the residents. In the rented house, which will be occupied by residents for 3 months, equipment such as cooking stoves, mattresses, gas cylinders, jackets, clean water and basic necessities are also available. This is intended so that the victims can feel comfortable in their respective rented houses. Because all the needs they need during the contract are complete and readily available. Irto Ginting, as the Corporate Secretary of PT. Pertamina Patra Niaga stated that PT. Pertamina prepared Rp. 5.6 million rupiah for each family head for the cost of contracting for 3 months and for pocket money which will later be used by each family head to meet their household needs while contracting. Irto also stated that later the rented facilities would be directly chosen by each resident and this had been discussed with the local RW. Not only residents who contract who receive assistance costs, residents who are victims but whose status is not contracting will also receive cash assistance and later this money will be released to residents who receive it for how they manage their money and what they want to use the money for.

In addition to the form of accountability provided by PT. Pertamina by providing rented houses for 3 months free of charge and pocket money to residents who are victims, PT. Pertamina also provides other forms of accountability to residents who are victims of this intense fire incident. PT. Pertamina provides assistance and is ready to take full responsibility for the victim's medical expenses. Assistance for medical expenses for victims is given to residents who are in referral hospitals and victims who are being treated at Pertamina-affiliated hospitals. Apart from residents in the hospital, PT. Pertamina also provides assistance with funeral expenses to the families of victims who died. This was stated by Fadjar Djoko Santoso, as Pertamina's VP Corporate Communication. In addition, starting Friday, March 3, 2023 PT. Pertamina has started to provide assistance at several points of victim evacuation posts. The assistance provided was in the form of 60 boxes of drinking water, 200 packages of ready-to-eat food that the victims could consume, snacks, mattresses or sleeping pads, blankets, and masks. Fadjar said that Pt. Pertamina has moved as quickly as possible to send aid to residents who are currently at evacuation posts because they have to be evacuated from their homes. PT. Pertamina also coordinates and cooperates with officials in evacuation locations so they can monitor what needs are needed by residents who are victims in

evacuation locations. It is intended that PT. Pertamina can immediately know and can immediately fulfill the things that become their needs.

Insurance for Plumpang Fire Victims

Various problems will definitely come in the life of every human being, we cannot avoid simple problems or complex problems that will be skipped. However, the human solution as an individual is an important value for dealing with a problem. In going through every problem, the role of insurance is needed which has the function of minimizing the occurrence of losses, especially in financial losses, so that it will provide a sense of security and minimize the risk of loss for the community. The development of the Indonesian insurance industry has progressed quite well in recent years. Insurance companies are showing growth in the businesses they manage, and more and more customers are seeking insurance services throughout their lives. The number of insurance users will increase by 28.03% in 2022 compared to the previous year. The Indonesian Life Insurance Association (AAJI) notes that in 2022 the number of life insurance customers in Indonesia will reach 80.85 million. While in the previous year there were only 63.15 million people. In detail, the number of life insurance group customers is 54.88 million. This data shows that public awareness of the importance of protection causes a high number of insurance users. This is of course a clear advantage for insurance companies that offer insurance services and have a wider market to target and exploit as a market for their products. However, there are not a few people who do not understand insurance, the types of insurance, the purpose of insurance policies and insurance benefits, let alone know more about insurance, especially the laws and regulations that govern it.

According to the Law of the Republic of Indonesia number 40 of 2014 concerning insurance. (in lieu of Law Number 2 of 1992), "Insurance is an agreement between two parties, namely the insurance company and the policyholder, which forms the basis for receiving premiums by the insurance company in return for: Providing reimbursement to the insured or policyholder due to loss, damage, costs incurred, lost profits, or legal liability to third parties that may be suffered by the insured or policyholder due to the occurrence of an uncertain event; or provide payments based on the death of the insured or payments based on the life of the insured with benefits of a predetermined amount and/or based on the results of Fund management.

There are several types of insurance that can provide protection to fire victims, including:

1. Fire insurance provides financial protection against loss or property damage caused by a fire. This insurance policy may cover the cost of repairing or replacing damaged or lost property.
2. Home insurance provides financial protection against damage or loss of property caused by fire. This insurance policy covers the cost of repairing and replacing property damaged or lost due to fire.
3. Home content insurance provides financial protection against damage or loss of home contents such as furniture, electronic equipment, and so on caused by fire.
4. Business insurance provides financial protection against loss or damage to property, legal liability, and loss of income due to fire.
5. Vehicle insurance provides financial protection against damage or loss of the vehicle due to fire.
6. Critical illness insurance provides financial protection against the costs of caring for and treating critical illnesses such as cancer or heart attacks that may occur as a result of a fire.

Regarding the insurance issued by Pertamina for affected victims, Executive Director of the Indonesian General Insurance Association (AAUI), Bern Dwyanto, said that his party still does not know whether Pertamina guarantees insurance for affected communities or not. He explained that the insurance policies that could be submitted by the aggrieved party included property and vehicle insurance. Both of these insurances included in the insurance coverage can be applied for the victim's own insurance. AAUI Vice President Information and Applied Technology Dody Dalimunthe also added that the fire at the Plumpang Depot could be covered by oil and gas insurance or possibly property insurance. Because the two types of insurance cover losses due to damage to property and third party liability due to fire. Affected victims can actually use liability insurance because of the impact of the fire which caused huge losses for residents. However, if you want to use liability insurance, the victims must assess and prove that the loss originated from Pertamina's negligence.

CONCLUSION

The fire incident that occurred at one of the Pertamina Plumpang Depots on Friday, March 3 2023 has caused many losses to residents who live around the Pertamina Plumpang Depot. Not a few victims suffered injuries and even died and not a few residents suffered losses due to loss of property, vehicles, and many even lost their homes. Therefore, residents who are victims sue PT. Pertamina to immediately take responsibility for the consequences of this incident. Residents demand that PT. Pertamina can rehabilitate residents' homes that were destroyed by fire, provide assistance to victims who are being treated and provide psychological assistance to victims who are traumatized by this incident, and residents also demand that PT. Pertamina is relocating the Pertamina Depot to a safer place and far from residential areas.

Many forms of assistance were given to residents who were in evacuation, such as providing food and other necessities needed by residents during evacuation. PT. Pertamina also provides medical assistance to residents who are being treated in hospitals and provides funeral assistance to residents who are victims and have died. Besides that, PT. Pertamina provides rental housing facilities for victims who have lost their homes and includes the equipment needed while contracting, in addition to rented housing facilities, the residents are also given pocket money that they can manage to buy their needs. When this event occurs, the most important thing that must be owned by victims who experience losses is insurance. Insurance is very important to have because it can reduce the losses suffered by victims. Insurance is clearly written and regulated in the Law of the Republic of Indonesia number 40 of 2014 concerning Insurance (in lieu of Law Number 2 of 1992). Insurance that can provide protection to fire victims, among others; Fire insurance, home insurance, home content insurance, business insurance, vehicle insurance and critical illness insurance. However, in the event of this fire, the insurance that is owned can only be used if it has been proven that this fire incident was indeed caused by negligence on the part of PT. Pertamina.

Suggestion: Pertamina must evaluate the management and supervision system for the Depot so that similar incidents do not recur in the future, Pertamina must also increase transparency in providing information regarding these incidents, so that the public can understand the situation better. The community must also know the rules that should be that the distance between residents' settlements and the Pertamina depot is too close. So that the area is considered dangerous and threatens the safety of the community itself. The governments that gave temporary building permits (IMB) should also be held accountable to the victims of this incident.

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