

Relevansi fakta hukum dalam penggunaan sifat melawan hukum negatif : kajian putusan nomor 29/Pid.B/2007/PN/PL.R

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Abstrak

This paper examines the relevance of the term 'nature against the law in negative sense' as the reason for the suppression of criminal law to the facts revealed at trial. The relevance is important because proving the existence of nature against the law in a negative sense associated with the values of decency and living habits in society. The judges in this case seem to ignore assessing the facts of existing law as a unity, and value each of them as something that is partial and stand-alone. The fallacies in judges' legal thinking also happened when assembling the facts to one another because it is illogical that the defendant's actions are assumed to serve public interest when the public interest wants to be served has been completed long before the defendant's caught red-handed transporting timber without legal documentation. When the judges missed in assessing the facts based on reasonable interpretation and logical thought patterns, the decision therein therefore is a decision that denies the values of justice, expediency, and legal certainty as seen in this decision.