

Litigating cross-border environmental dispute in Indonesian civil court : the Montara case / Iman Prihandono, Esty Hayu Dewanty R.K.

Iman Prihandono, author

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Abstrak

ABSTRAK

In August 2009, a wellhead blowout took place at an offshore drilling facility named the Montara platform, on the north coast of Australia. This incident released crude oil into the sea and continued until November 2009. The Montara platform is owned by PTTEP Australasia Pty. Ltd., a company incorporated under the law of Australia, and a subsidiary of PTT Exploration and Production Public Company Limited, a Thailand based, state-owned oil company. Based on samples taken by the East Nusa Tenggara Municipality in the waters along the coast of Kolbano, it was found that the sea water has been polluted with crude oil. There was an indication that the crude oil was identical to those of at the Montara well head platform. This incident has been detrimental to at least 9.000 fishermen and seaweed farmers along the coast of West Timor Sea, with total losses estimated at USD2.4 billion. This article examines the possibility of a lawsuit brought by the affected communities to the Indonesian civil court. This article finds that filing a lawsuit against foreign entity may be possible. Article 100 RV of the Indonesian law on civil procedure provide an opportunity to sue foreign entity when a contractual relationship exists.

Pada Agustus 2009, terjadi kebocoran pada fasilitas pengeboran lepas pantai di pantai utara Australia, yang diberi nama Montara. Kebocoran ini menumpahkan minyak mentah ke laut dan berlanjut sampai dengan Nopember 2009. Fasilitas pemngeboran Montara dioperasikan oleh PTTEP Australasia Pty. Ltd., sebuah perusahaan Australia, dan anak perusahaan dari PTT Exploration and Production Public Company Limited, yang merupakan perusahaan milik negara Thailand. Berdasarkan sampel yang diambil oleh pemerintah daerah Nusa Tenggara Timur padaperairan pantai Kolbano, ditemukan bahwa perairan laut telah tercemar oleh minyak mentah.

Terdapat indikasi kuat bahwa minyak mentah ini identik dengan yang ditemukan pada fasilitas pengeboran Montara. Kejadian ini telah merugikan 9.000 nelayan dan petani rumput laut di sepanjang pantai Timor Barat, total kerugian diperkirakan USD2.4 milyar. Tulisan ini menguji kemungkinan bagi masyarakat korban membawa kasus ini ke pengadilan perdata Indonesia.

Tulisan ini menemukan bahwa terbuka kemungkinan menggugat badan hukum asing. Pasal 100 RV hukum acara perdata Indonesia memungkinkan menggugat orang asing bila terdapat hubungan perikatan.