

THE DYNAMICS OF COURT DECISIONS IN THE CIVIL DISPUTE OVER GOLD SALES BETWEEN PT ANTAM TBK AND BUDI SAID AND ITS IMPLICATIONS FOR THE APPLICATION OF CIVIL LAW IN INDONESIA

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| <p>ARTICLE HISTORY Received [17 February 2025] Revised [16 March 2025] Accepted [19 April 2025]</p> | <p>ABSTRACT <i>This study examines the litigation trajectory of the gold sales dispute between PT Aneka Tambang Tbk (Antam) and Budi Said across four judicial levels in Indonesia: the Surabaya District Court, the Surabaya High Court, the Supreme Court at the cassation stage, and two rounds of judicial review (Peninjauan Kembali). Employing a normative legal research design, the analysis draws on statutory provisions, court decisions, and scholarly literature to assess the application of tort elements in sale contracts. Findings reveal divergent interpretations of tort elements (unlawful act, loss, causation, and fault) at each judicial tier: the District Court and the Supreme Court (cassation and first judicial review) affirmed the presence of tort, obligating Antam to deliver 1.136 tons of gold or pay compensation; the High Court rejected the claim entirely; and the second judicial review reversed Antam's obligation based on new criminal findings against Budi Said. These oscillating verdicts generate legal uncertainty, blur the line between breach of contract and tort, and underscore the need for harmonization between civil and criminal proceedings and the standardization of tort evidentiary rules. Recommended measures include issuing consistent Supreme Court jurisprudential guidelines, clarifying corporate authority in contractual engagements, and strengthening internal corporate oversight.</i></p> |
| <p>KEYWORDS <i>breach of contract; tort; corporate liability; legal certainty; judicial review; gold sales dispute</i></p> | |
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INTRODUCTION

Civil disputes arising from sales agreements frequently lead to breaches of contract that undermine parties' trust and may precipitate protracted litigation. A breach of contract (*wanprestasi*) encompasses non-performance, negligent performance, or injury to promise, whether deliberate or due to negligence (Mahfuzh et al., 2021). Article 1320 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*, hereinafter "Civil Code") prescribes four essential elements for a valid contract: mutual consent of the parties, legal capacity, a definite object, and a lawful cause. Nevertheless, in practice many contracts fail to satisfy these requirements before the courts (Bagaskara & Priyanto, 2020). Consequently, the aggrieved party may claim compensation for costs, losses, and interest under Article 1243 of the Civil Code, provided the defaulting party remains in default after a declaration of non-performance (Warta et al., 2020).

Liability for breach of contract may attach to either natural persons or legal entities. Where an individual is in default, liability rests directly on the debtor, such that any obligation to pay damages or compensation emanates from the debtor's personal assets, in accordance with the principles of fault-based liability and contractual certainty (Fazriah, 2023). Article 1238 of the Civil Code states that a debtor is deemed in default after receiving a formal notice or equivalent instrument, and is liable only for costs, losses, and interest directly caused by the breach. The debtor's civil liability is absolute and prioritizes the restitution of the creditor's rights through damages and specific performance (Fahlevi et al., 2023). By contrast, where a legal entity—such as a limited liability company—is in breach, liability ordinarily lies with the entity as a separate legal person, limited to the company's assets and not extending to the personal assets of its officers or shareholders (Putri & Sulastri, 2024). However, in exceptional circumstances—such as gross negligence, abuse of authority, or unlawful acts by the board of directors—a court may hold individual officers personally liable for resulting losses (Ratuwala et al., 2024). Furthermore, where the breach transcends ordinary non-performance—evidenced by bad faith or gross negligence—the act may qualify as a tort under Article 1365 of the Civil Code, entitling the creditor to additional compensation for moral or non-pecuniary damages (Elia et al., 2025). This phenomenon demonstrates that not all sales disputes—such as those involving gold bullion—are decided solely on the basis of breach. For instance, in the Surabaya District Court decision No. 158/Pdt.G/2020/PN.Sby, the



panel of judges unequivocally found that the elements of a tort—unlawful act, damages, and causation—were satisfied, and therefore the claim was characterized not merely as a breach but as a tortious claim for damages that harmed the plaintiff. The case concerned the sale of 1,136 kilograms of gold between PT Aneka Tambang Tbk (“PT Antam”) and entrepreneur Budi Said.

The dispute originated in 2018 when Budi Said alleged that PT Antam failed to deliver the 1,136 kg of gold he had paid for. He sued Antam in the Surabaya District Court and prevailed, but the decision was reversed on appeal by the East Java High Court. On cassation, the Supreme Court granted Budi Said’s petition and ordered Antam to deliver the gold. However, following new evidence of alleged corruption in the gold transaction, the Supreme Court accepted Antam’s second judicial review (Peninjauan Kembali) in 2025 (detik.com, 2025).

As a result, the Supreme Court granted the second review, quashed the first review judgment, reheard the case, and dismissed the claim, thereby relieving Antam of any obligation to deliver the 1,136 kg of gold to Budi Said. Antam’s counsel stated that there is now “no further obligation to deliver the 1,136 kg of gold to Budi Said” (detik.com, 2025). Concurrently, Budi Said was sentenced to 15 years’ imprisonment by the Central Jakarta Corruption Court for corruption in manipulating the purchase of Antam’s gold, causing state losses of approximately IDR 1.1 trillion (kompas.com, 2024), a sentence later increased to 16 years by the Jakarta High Court (tempo.co, 2025). This dual—civil and criminal—case underscores the complexity of corporate contractual liability and law enforcement in Indonesia.

Despite involving a major state-owned enterprise and significant economic and legal consequences, there remains a paucity of in-depth academic analysis concerning the multi-tiered litigation of the Antam v. Budi Said case. Indonesian civil law literature tends to focus on general contractual principles and civil liability, but has yet to address the judiciary’s role in concrete disputes of this nature. This represents a significant research gap, as the outcomes at the district, high, supreme, and review levels reflect how civil law principles are applied in state-owned corporate disputes. Accordingly, this study aims to analyze the litigation trajectory of PT Antam Tbk v. Budi Said through the district court, high court, Supreme Court, and judicial review stages, and its implications for the application of Indonesian civil law. A thorough analysis of these rulings is expected to offer new insights into state-owned corporate accountability within the national civil law framework.

RESEARCH METHODOLOGY

This study employs a normative legal research approach, which relies on the examination of written legal norms as contained in legislation, doctrine, and judicial decisions. This approach is appropriate given the primary objective of this study: to scrutinize corporate civil liability for torts in the gold sales dispute between Budi Said and PT Antam, based on Surabaya District Court Decision No. 158/Pdt.G/2020/PN.Sby and subsequent decisions at the appellate, cassation, and judicial review levels.

The data used are secondary sources, comprising primary, secondary, and tertiary legal materials. Primary legal materials include relevant statutory provisions such as Articles 1320, 1243, 1365, and 1367 of the Civil Code, as well as official copies of the judicial decisions under review. Secondary legal materials consist of academic literature, journal articles, expert opinions, and legal news coverage providing factual developments of the case. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references. Legal materials were collected through library research, accessing national and international legal databases, and retrieving court decisions via the Directory of the Supreme Court of the Republic of Indonesia and other official sources. The analysis of legal materials is qualitative, utilizing deductive legal reasoning to assess the legal validity and fulfillment of tort elements in the case. A systematic approach identifies the relationships among factual findings, judicial reasoning, and applicable legal norms, while a conceptual approach evaluates whether the court’s decisions reflect principles of corporate civil liability consistent with fairness, legal certainty, and protection of the aggrieved party. The ultimate aim of this methodology is to reconstruct a deeper understanding of the legal parameters used in evaluating corporate tort liability and to assess the significance of these judicial decisions for the development of Indonesian civil law, particularly concerning state-owned enterprises engaged in high-value commodity transactions such as gold bullion.

RESULTS AND DISCUSSION

Amendments to the Judgment and Legal Reasoning in Surabaya District Court Decision No. 158/Pdt.G/2020/PN.Sby and Subsequent Appellate, Cassation, and Judicial Review Decisions

A tort (perbuatan melawan hukum or "onrechtmatige daad") is a source of obligation arising directly from statute when a person’s conduct violates legal norms. Articles 1365 and 1366 of the Civil Code set out the duty to compensate for loss resulting from wrongful acts, whether through intent or



negligence. According to Gunawan Widjaya and Kartini Muljadi, the elements of a tort are: (1) an unlawful act, (2) the occurrence of damage to another party, and (3) fault or negligence on the part of the tortfeasor (Amalia, 2012).

a. Tort Elements in Surabaya District Court Decision No. 158/Pdt.G/2020/PN.Sby

In the Surabaya District Court decision dated 13 January 2021, Budi Said sued PT Aneka Tambang Tbk ("Antam") and certain employees for tortious conduct (mahkamahagung.go.id, 2021a). The alleged torts included unauthorized discounts outside Antam's official pricing mechanism, involvement of a non-employee intermediary (Eksi Anggraeni), and incomplete invoices indicating bad faith by Antam. The court observed that the "discount price" information provided by Eksi Anggraeni and later confirmed by Antam employees (Defendants II–IV) directly contravened the company's internal policy against ad hoc discounts. Although there was no evidence of invoice forgery, the incomplete invoices demonstrated administrative negligence by Antam staff. The participation of Endang Kumoro (Defendant II) and Misdianto (Defendant III) in facilitating these unauthorized discounts—despite knowledge of the internal prohibition—established the element of an unlawful act. This aligns with the broad definition of *onrechtmatige daad* as articulated in Hoge Raad 1919, which considers any violation of another's subjective rights and one's own legal duties as a tortious act (Iskandar & Adhityati, 2024).

The damage element was satisfied as Budi Said did not receive the 1,136 kg of gold he had fully paid for. The court relied on the transaction record and criminal case judgments No. 2658/PID.B/2019/PN.SBY (Surabaya District Court), No. 211/PID/2020/PT.SBY (East Java High Court), and Supreme Court No. 600K/PID/2020 to confirm the shortfall. Accordingly, the court ordered Antam to deliver 1,136 kg of gold or pay material damages amounting to IDR 817,465,600,000, adjusted to Antam's official gold price fluctuations (Iskandar & Adhityati, 2024). Causation was established because the plaintiff's loss directly resulted from the defendants' tortious acts. Article 1365 requires a causal link between the wrongful act and the damage. Here, the unauthorized discounts and administrative omissions in invoicing (Exhibits P-416 to P-524), confirmed by Defendants II–IV, were the direct cause of the non-delivery of the gold. Applying the *conditio sine qua non* test, the court held that without the erroneous price confirmation and invoice deficiencies, the 1,136 kg shortfall would not have occurred (Iskandar & Adhityati, 2024).

Fault was proven since Eksi Anggraeni (Defendant V) intentionally communicated an incorrect discount price, creating false reliance, and Antam employees (Defendants II, III, IV, and VI) negligently confirmed and approved the discount contrary to internal policy. Moreover, Surabaya District Court criminal decision No. 2658/PID.B/2019/PN.SBY found Endang Kumoro, Misdianto, and Ahmad Purwanto guilty of fraud, reinforcing evidence of fault under Article 1365. Thus, both the willful misconduct of Eksi and the administrative negligence of Antam staff satisfied the fault element (Iskandar & Adhityati, 2024). Overall, the district court decision coherently applied the four tort elements—unlawful act, damage, causation, and fault—as required by Article 1365.

b. Elements of an Unlawful Act under Surabaya High Court Decision No. 158/Pdt.G/2020/PN.Sby

The dispute over the sale of Antam gold between Budi Said and PT Aneka Tambang Tbk was adjudicated through litigation. Although Budi Said, as the purchaser, sought extraordinarily large damages—amounting to trillions of rupiah—an Economic Analysis of Law (EAL) perspective held that such a claim was manifestly excessive and ought to be adjusted to ensure fairness for both parties. EAL emphasizes that legal remedies must account for utility, value, and efficiency, and should not impose a disproportionate burden on business actors (in this case, a state-owned enterprise) (Wahyuni, 2023).

Upon reviewing the verdict of the Surabaya District Court in Case No. 158/Pdt.G/2020/PN.Sby, the matter was classified as an unlawful act (*perbuatan melawan hukum—PMH*), rather than a breach of contract (*wanprestasi*). In its dispositive section, the panel of judges expressly found that the Plaintiff (Budi Said) had proved the Defendants (PT Antam) committed an unlawful act causing him loss. Accordingly, the court granted part of the Plaintiff's claim, ordering the Defendant either to deliver the contracted gold or pay monetary compensation as damages (mahkamahagung.go.id, 2021a). The legal basis for this classification rests on the finding that no valid agreement meeting the requisite contractual elements existed; rather, the Defendants' conduct—such as internal procedural violations and forgery—constituted a tortious act that inflicted loss on the Plaintiff. This conclusion is explicitly reflected in the judgment's operative clause, which characterizes the Defendants' conduct as an unlawful act. However, this finding was subsequently overturned by the Surabaya High Court in Decision No. 158/Pdt.G/2020/PN.Sby, which corrected the District Court's ruling in the same matter.



Pursuant to Surabaya High Court Decision No. 371/Pdt/2021/PT SBY dated 19 August 2021, the appellate panel reversed the Surabaya District Court's Judgment No. 158/Pdt.G/2020/PN Sby and, on its own motion, ruled that Budi Said's entire claim be dismissed (mahkamahagung.go.id, 2021b). In other words, the High Court did not uphold any finding of unlawful act (PMH) to the detriment of the Plaintiff.

By contrast, the District Court had previously held that Defendants I through V—including PT Aneka Tambang Tbk and the individuals Endang Kumoro, Misdianto, Ahmad Purwanto, and Eksi Anggraeni—"were guilty of committing an unlawful act" in the gold-sale transaction. On appeal, however, the panel concluded that neither PT Antam nor the individual respondents had proven any PMH in the Antam gold sale. The High Court therefore dismissed the Plaintiff's suit in its entirety and implicitly found that no PMH had been committed by the Defendants. Accordingly, the High Court affirmed that the requisite elements of a tort—unlawful act, fault, damage, and causation—were not satisfied in Budi Said's case, rendering his claim unfounded.

c. Elements of an Unlawful Act under Supreme Court Cassation Decision No. 1666 K/Pdt/2022

Pursuant to Supreme Court Cassation Decision No. 1666 K/Pdt/2022 dated June 29, 2022, the Supreme Court reaffirmed that all elements of an unlawful act (*perbuatan melawan hukum*) were satisfied:

1. Wrongful Act (Tort): The actions of the ANTAM employees constituted an unlawful act—namely, fraud.
2. Fault (Kesalahan): Liability was imputed to the company itself under Article 1367 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata) by virtue of the employer's responsibility for its agents.
3. Actual Loss (Kerugian Nyata): Tangible damages were demonstrated in accordance with the Surabaya District Court's damage calculations.
4. Causation (Hubungan Kausal): A clear causal link between the fraudulent conduct and the Plaintiff's loss was established.

These findings align with the District Court's reasoning, which had determined that Defendants I–V committed an unlawful act (fraud) (mahkamahagung.go.id, 2022). Accordingly, at the cassation level, the Supreme Court confirmed that PT Antam and its employees were jointly and severally liable for material damages (Haetami et al., 2024).

A comparative analysis of the four elements under Article 1365 of the Civil Code shows consistency between the District Court and the Supreme Court in recognizing wrongdoing, loss, causation, and fault, whereas the Surabaya High Court's decision diverged significantly. The District Court and Supreme Court judgments are supported by transactional evidence and established principles of corporate liability, while the appellate court focused more narrowly on administrative contract formalities and the individual status of the actors. Therefore, the fulfillment of the unlawful-act elements is more convincingly upheld by the District Court and the Supreme Court, whereas the High Court's view appears less aligned with prevailing legal norms of liability.

d. Elements of an Unlawful Act under the First Judicial Review Decision No. 554 PK/PDT/2023 (PK1)

Pursuant to the operative clause of the Supreme Court's First Judicial Review (PK1) Decision dated 12 September 2023, the Court dismissed PT Aneka Tambang Tbk's ("Antam") application for judicial review, ordering Antam to bear the litigation costs at all levels of the judiciary, which in the PK proceedings amounted to IDR 2,500,000 (two million five hundred thousand rupiah) (sipp.pn-surabayakota.go.id, 2023). Consequently, the cassation judgment requiring Antam to deliver 1.136 kg of gold to Budi Said remained in force. Antam is therefore obliged to compensate Budi Said in gold (approximately IDR 1.15 trillion at prevailing rates) or its monetary equivalent.

In this decision, the Supreme Court affirmed that the sale and purchase agreement for seven tonnes of gold between Antam and Budi Said was valid and binding, notwithstanding that the discount transaction had been executed by an unauthorized officer of Antam (kompas.tv, 2023). In other words, the Supreme Court in PK1 did not annul Antam's contractual obligations, despite suspicions of manipulation, and enforced the earlier court order in full.

Notably, the Supreme Court's PK1 decision does not address the tortious (PMH) aspects explicitly. Rather, it upholds Antam's contractual duties without finding any legal defects in the agreement. The Court rejected Antam's review petition and maintained the directive to deliver the gold based on the contract's evidence and Antam's own admission of short delivery. Thus, the Supreme Court prioritized

contractual certainty and refused to set aside the prior judgments merely because an unauthorized individual had executed the discount transaction (kompas.tv, 2023).

e. Elements of an Unlawful Act under the Supreme Court's Second Judicial Review Decision No. 815 PK/PDT/2024 (PK2)

The operative clause of PK2, rendered on March 11, 2025, provides: "PK granted; PK1 annulled; case remanded; claim dismissed" (mahkamahagung.go.id, 2025). By this new ruling, Antam is no longer obliged to deliver 1.136 kg of gold to Budi Said. PK2 thus rejects Budi Said's claim following a full re-examination.

The pivotal basis for PK2 was the emergence of new criminal facts: Budi Said was conclusively found guilty of orchestrating a corrupt scheme in the Antam gold sale. The Central Jakarta Corruption Court sentenced him to 15 years' imprisonment (increased to 16 years) for manipulating Antam gold transactions. These criminal findings—that no lawful purchase of 1.136 kg had occurred—provided Antam with grounds to have the earlier judgment overturned. Although the Supreme Court's PK2 judgment does not expressly label Budi Said's conduct as a "perbuatan melawan hukum," it effectively nullifies Antam's delivery obligation on account of these new criminal facts (kompas.com, 2025).

In practice, PK2 annuls the underlying contract. Antam's counsel commented that the bribe-giving and -receiving constituted an unlawful act (PMH), rendering the sale agreement legally void (idntimes.com, 2024). While the Supreme Court did not formally invoke the term "perbuatan melawan hukum," the outcome aligns with the concept of PMH: the contract is automatically void and restitution ordered. In short, whereas PK1 had reinforced the contract without addressing any unlawful act, PK2—supported by criminal findings—implicitly treats the transaction as void ab initio due to Budi Said's wrongful conduct (kompas.com, 2025).

Legal Implications of the Dynamics of Surabaya District Court Decision No. 158/Pdt.G/2020/PN.Sby and Its Subsequent Appellate, Cassation, and Judicial Review Rulings on Indonesian Civil Practice

The Surabaya District Court's Decision No. 158/Pdt.G/2020/PN.Sby, rendered on 13 January 2021, held that PT Aneka Tambang Tbk ("ANTAM") was obliged to deliver the shortfall of 1.136 tons of gold to Budi Said or, alternatively, to pay the equivalent value in money. However, on appeal and at cassation the outcomes fluctuated dramatically: the Supreme Court initially affirmed Budi Said's victory; the first judicial review (PK-1) in September 2023 likewise upheld his claim; but the second judicial review (PK-2) in March 2025 ultimately set aside all prior decisions and dismissed the suit. Such a series of reversals has generated significant legal uncertainty for civil and commercial practice in Indonesia, leaving judges, practitioners, and private parties uncertain whether ANTAM's conduct should be treated as contractual breach or tort, and casting doubt on the protection afforded to contractual rights and good faith in business relations. In the gold-sale dispute between PT Antam Tbk and Budi Said illustrate a highly complex jurisprudential dynamic, summarised as follows:

1. Surabaya District Court (158/Pdt.G/2020):
Operative Part: Partially granted Budi Said's claim, finding that PT Antam had committed an unlawful act (*perbuatan melawan hukum*).
Reasoning: The panel held that the defendant's internal procedural breaches and forgery amounted to a tortious act causing loss to the plaintiff.
2. Surabaya High Court (371/PDT/2021): Operative Part: Overturned the District Court's decision and dismissed the entire suit.
Reasoning: The appellate bench concluded that the plaintiff had failed to prove either a valid representative authority or actionable wrongdoing.
3. Supreme Court (1666 K/Pdt/2022): Operative Part: Allowed Budi Said's cassation appeal and restored the District Court's judgment.
Reasoning: The Supreme Court found that the High Court erred in its assessment of the evidentiary weight regarding the unlawful act.
4. First Judicial Review (PK-1) filed by PT Antam: Operative Part: Rejected.
Reasoning: Confirmed that the Supreme Court's cassation reasoning was legally sound and procedurally correct.
5. Second Judicial Review (PK-2) filed by PT Antam:
Operative Part: Granted, thereby annulling the PK-1 ruling.
Reasoning: The Court of Review accepted new prima facie evidence suggesting that internal authorisation did exist and that the standard operating procedures were not breached.

These successive reversals demonstrate that at each level of adjudication, the bench diverged in its interpretation of:

1. Internal Authorisation vs. Valid Representation
2. Evidentiary Weight in Tort (*Unlawful Act*) Claims
3. Validity of Corporate SOPs in Establishing Corporate Liability

Article 1365 of the Indonesian Civil Code provides that “any unlawful act which causes harm to another person obliges the actor to make good the loss.” The requisite elements of a tort (PMH) are:

1. Unlawful act (violation of either a subjective or objective right)
2. Damage (loss suffered by the claimant)
3. Fault (*culpa*) on the part of the actor
4. Causation (a causal link between the act and the damage)

In the ANTAM–Budi Said case, the Surabaya District Court (PN Surabaya) found all four elements satisfied: ANTAM’s conduct infringed Budi Said’s legal right under their gold-sale contract; it caused material loss (1.136 kg of gold) and immaterial harm; and it was committed through negligence, thereby triggering liability for damages. Academic studies confirm that “PT Antam’s conduct fulfilled the elements of unlawful act, damage, fault, and causation as stipulated in Article 1365 of the Civil Code.” Moreover, PN Surabaya relied upon the Dutch Hoge Raad decision of 1919 to adopt a broader definition of tort: ANTAM was held to have breached Budi Said’s rights and obligations as a consumer (Iskandar & Adhlyati, 2024).

However, the conflicting outcomes at the appellate and cassation levels illustrate the uncertainty in applying the tort elements. On one hand, the District Court judges deemed ANTAM’s employees (including Eksi Anggraeni et al.) to have acted in bad faith, thus binding ANTAM in tort. On the other hand, subsequent appellate and cassation courts acquitted ANTAM on a contractual basis (finding that contractual obligations had been fulfilled and no negligence occurred). This inconsistency blurs the doctrine of tort in the context of sale contracts. Civil practitioners and legal scholars emphasize that such vacillating judgments undermine legal certainty: judges lack a strong precedent to decide when a breach of contract also constitutes a tort, and when it must be addressed purely under contract law. The practical implication is that lawyers must now carefully distinguish ordinary breach-of-contract claims from tort claims; this juridical uncertainty may give rise to inefficiency and increased litigation costs, as parties test the boundaries of Article 1365’s elements.

Principle of *pacta sunt servanda*. Article 1338 of the Civil Code affirms that “all contracts legally entered into bind the parties and must be performed in good faith.” The ANTAM–Budi Said dispute tests this principle. Budi, as a “good-faith” purchaser, fully paid for the gold sale promise, whereas ANTAM (through its employees) failed to perform. From a commercial standpoint, the inconsistent rulings generate concerns over contractual certainty. If the District Court treated employees’ promises as binding ANTAM (thus upholding the seller’s good-faith obligation), but the Supreme Court ultimately exonerated ANTAM, a contract once deemed valid becomes uncertain. In business practice, this means companies must clarify employee authority and incorporate protective clauses (e.g., *force majeure* or delegation limits) in their contracts. Consequently, businesses are forced to anticipate potential tort claims outside formal contract frameworks.

Corporate liability perspective. The District Court’s initial ruling implied that ANTAM must answer for its employees’ fraud (Eksi) as part of the corporate hierarchy, but the Supreme Court ruled otherwise. Under Law No. 40 of 2007 on Limited Liability Companies (UUPT), directors and commissioners must act in the corporation’s interest; if contract non-performance arises from an organ’s negligence (an employee exceeding authority), the company may be held liable. These fluctuating judgments underscore that, in Indonesian practice, corporations must exercise greater caution in delegating authority: internal regulations and corporate-governance systems should be fortified so that employees’ promises do not expose the company to *onrechtmatige daad* (tort).

Good-faith purchaser protection. Budi Said, who acted honestly and fulfilled his payment obligation, ought to receive legal protection and compensation (e.g., under Article 4 of Law No. 8 of 1999 on Consumer Protection). With the reversal of decisions, consumer protection becomes opaque. Yet the good-faith principle is explicitly enshrined in Article 1338 of the Civil Code, which requires contract performance “in good faith.” Inconsistent judicial reversals can weaken business actors’ good faith, given the unpredictability of liability. Ultimately, these conflicting decisions shake the legal-certainty principle in business contracts: if contract enforcement or tort claims may end differently at each judicial level, businesses and investors struggle to devise safe contracting strategies.

The ANTAM–Budi Said saga reveals that a hybrid approach—straddling breach of contract and tort—remains controversial. Precedents and doctrine have shifted interpretations of tort elements: PN



Surabaya adopted a broad view (citing the 1919 Hoge Raad), whereas the Supreme Court narrowed them. As a result, “pseudo-precedents” emerge: although the final Supreme Court ruling is conclusive, prior reversals sow doctrinal uncertainty. For contractual business practice, this drives a more conservative approach: obligations must be drafted with maximum clarity, risk allocation spelled out explicitly, and good-faith commitments firmly agreed, so as to avoid litigative controversies akin to the ANTAM–Budi Said case.

Significant legal implications include:

1. Erosion of Legal Certainty: Dynamic reversals across five judicial stages (including two applications for judicial review) create perceptions of inconsistency in civil-law judgments, undermining public trust in the judiciary.
2. Inconsistent Breach-of-Contract Proof Standards: Divergent interpretations of transactional evidence, invoices, and internal documents show that tort proof standards lack uniformity in commercial litigation.
3. Fragmented Corporate Liability: While PN Surabaya and the Supreme Court’s first cassation upheld vicarious liability, the second judicial-review decision exonerated the corporation, generating uncertainty regarding corporate responsibility for subordinates’ acts, especially where SOPs are unclear or ambiguous.

These implications underscore the need for Indonesian civil law reform in:

1. Standardizing tort-of-contract proof in modern contracts;
2. Providing explicit guidelines on corporate liability; and
3. Clarifying the role and weight of corporate SOPs in assessing the validity of corporate officers’ acts.

Long-term and direct impacts:

1. Business sector: Particularly state-owned and commodity companies will exercise greater care in drafting and enforcing internal SOPs, recognizing that ambiguous or weakly supervised SOPs can incur major legal risks.
2. Commercial contracts: Companies will be driven to produce more detailed written agreements, delineating personal versus institutional liability and maintaining comprehensive electronic records, boosting demand for internal audit and legal-compliance services.
3. Investors and consumers: The Supreme Court’s final ruling against Budi Said in the second judicial review raises concerns over the efficacy of legal protection for consumers transacting with large corporations, fostering fears that companies may exploit internal-structural weaknesses to evade obligations.

Positive outcomes: this case may catalyze:

1. Internal corporate policy reform;
2. Strengthened prudential standards in trading strategic goods; and
3. Heightened legal awareness among investors and market participants.

Juridical and Theoretical Implications of Adjudicating Civil Disputes Involving Corruption

The juridical implications of corruption’s involvement in civil disputes are highly complex. In principle, a contract is valid only if it satisfies the statutory requirements for a binding agreement (Article 1320 of the Civil Code), including the elements of good faith and a lawful object. Where corruption is clandestinely embedded in the contracting process, the existence of an unlawful act (for example, fraud or bribery) may vitiate the contract’s validity. An agreement procured by deceit, falsehood, or fraud may be deemed void on the ground of prohibited causation (“*causa turpi*”) (Rahman et al., 2025).

Moreover, several judicial decisions hold that a court must probe the factual circumstances in depth; even when documentary evidence is scarce, a diligent judge will uncover defects of will arising from bad faith in the formation of the agreement (Sugiastuti et al., 2023). Consequently, if a contract is rescinded on account of corruption, the injured party may claim restitution under the general principles of civil liability (*restitutio in integrum*), pursuant to the doctrine protecting those harmed by unlawful acts (Gaol, 2023). In essence, corruption tainting an agreement undermines the *pacta sunt servanda* principle and may open the door to contract annulment and damages.

The “clean hands” doctrine dictates that a litigant must approach the court free of any illegal conduct related to the dispute. Although Indonesian civil procedure does not explicitly codify this doctrine, the requirement of good faith (Article 1338(3) Civil Code) imposes a duty of honesty and fairness on the parties. Should a claimant or defendant be implicated in corrupt acts concerning the contract, extending judicial protection to that party would contravene substantive justice. The Supreme Court consistently



distinguishes a simple breach of contract made in good faith (a purely civil matter) from one born of bad faith (deceit), which falls within the realm of criminal fraud (Gaol, 2023).

Thus, a party with “unclean hands”—for example, one who has bribed or defrauded—may not enforce the contract or recover damages in civil proceedings. For instance, proof of deceit or false representation underlying an agreement constitutes grounds for annulment due to the contract’s vitiating. In practice, a civil judge may invoke the spirit of the clean hands doctrine by dismissing claims of a party engaged in unlawful conduct, thereby safeguarding the judiciary’s legitimacy (Rahman et al., 2025). In this context, civil enforcement of legal principles is carried out by the general courts as organs of judicial authority (Handoko, 2015).

From a theoretical standpoint, a judicial review (Peninjauan Kembali, PK) at the Supreme Court is an extraordinary remedy designed to correct judgments deemed legally erroneous. Although strictly regulated, PK allows for the alteration of final decisions. In high-profile civil disputes involving corporate corruption, filing for PK may generate legal uncertainty, as an ostensibly final judgment remains susceptible to revision. Nevertheless, the use of extraordinary remedies like PK aligns with the characterization of corruption as an extraordinary crime, warranting unconventional enforcement measures. Anti-corruption enforcement must employ extraordinary methods, reflecting the systematic and pervasive nature of corrupt practices that harm the state and impoverish the populace. It is for this reason corruption has been classified as an extraordinary crime (Handoko, 2023).

Juridically, the Supreme Court seeks substantive truth by thoroughly examining facts and law in a PK proceeding, yet this pursuit may conflict with the principle of legal certainty for parties who consider the matter finally resolved. Hence, a judge capable of uncovering latent defects in agreement through comprehensive fact-finding is indispensable (Sugiasuti et al., 2023). Conversely, corporations often emphasize the sanctity of contractual rights and adherence to agreed terms. In light of these doctrines, PK must be balanced against the need for legal certainty so as not to become a perpetual avenue for dispute. If the Supreme Court repeatedly grants PK, especially for well-resourced corporations, public confidence in legal certainty may be eroded (Gaol, 2023).

Harmonizing civil and criminal adjudication is crucial to avert conflicting judgments and preserve public trust. When identical facts are litigated in both spheres—for instance, an executive absolved of civil breach while simultaneously criminally prosecuted for corruption over the same transaction—a legal paradox arises. The clean-hands requirement in civil cases must cohere with the *primum nil nocere* principle in criminal law. In corporate contexts, an agreement deemed valid and entered in good faith in civil court may nonetheless trigger criminal corruption charges, generating inconsistency. Therefore, a collaborative civil–criminal framework is essential to ensure coherent rulings. Such harmonization should respect legality and certainty: civil analysis of subjective intent should inform criminal proceedings, while criminal authorities should give due regard to civil judgments. This integrated approach upholds the credibility of the legal system and guards against ambiguity that undermines public confidence (Gaol, 2023).

In sum, addressing civil disputes tainted by corruption demands rigorous juridical scrutiny and a theoretically coherent methodology. Corruption embedded in a contract not only weakens its binding force but also nullifies any legal claim by a bad-faith party. The doctrines of clean hands and good faith must underpin judicial assessment of contract validity and damage claims, preventing civil procedure from serving as a haven for corrupt actors. Simultaneously, the Supreme Court must strike a balance between uncovering material truth through PK and upholding legal certainty. Finally, seamless collaboration between civil and criminal forums is indispensable to deliver effective, fair justice in these multifaceted disputes.

CONCLUSION

The analysis of the succession of judgments—from the Surabaya District Court through two levels of judicial review—reveals shifting interpretations of the elements of an unlawful act (PMH) in the PT Antam gold-sale transaction. Both the District Court and the Supreme Court (in cassation) confirmed that all four elements of PMH—wrongful act, loss, causation, and fault—were established, thereby obliging PT Antam to deliver the gold or pay compensatory damages. In contrast, the High Court on appeal dismissed the claim, focusing on administrative formalities and the personal status of the individual involved. The first judicial review (Peninjauan Kembali I) upheld Budi Said’s victory by rejecting PT Antam’s application, whereas the second review (Peninjauan Kembali II) reversed Antam’s liability in light of Budi Said’s criminal corruption conviction. These developments underscore the critical importance of authentic evidence, the integration of criminal and civil procedures, and consistent legal interpretation in high-stakes corporate disputes.



The PT Antam Tbk v. Budi Said litigation exemplifies the complexity and legal uncertainty afflicting Indonesian civil law when judgments vacillate—from trial court to appellate court, to the Supreme Court, and through two rounds of judicial review. Such reversals reflect a troubling inconsistency in applying the PMH doctrine, corporate liability, and protection of bona fide parties. This unpredictability undermines legal certainty and justice in commercial transactions. The divergent jurisprudence also highlights the absence of a uniform evidentiary standard and inconsistent application of corporate standard operating procedures (SOPs) in assessing corporate wrongdoing, blurring the line between contractual breach and tortious liability in civil practice.

Civil disputes tainted by corruption raise substantial doctrinal and practical challenges, particularly concerning contract validity and the duty of good faith. Corruption tainting an agreement can void its binding force and open the door to tort claims for damages. The clean-hands doctrine and the duty of candour are therefore pivotal in judicial assessment. Yet, multiple successive reviews exacerbate legal uncertainty. Moreover, misalignment between criminal and civil processes risks contradictory verdicts. Accordingly, cross-forum harmonization is essential to uphold justice and maintain public confidence.

Recommendations

Strengthen Internal Controls and Procedural Compliance

- a. Implement an independent and transparent audit system for all major transactions, including invoice verification and discount approvals.
- b. Conduct regular, intensive training for employees and periodic dissemination of official discount policies.
- c. Optimize data harmonization across administrative records, IT systems, and physical archives to prevent oversight.
- d. Enhance cooperation with law-enforcement agencies to ensure administrative findings lead promptly to legal action.
- e. Promote public transparency and integrity reporting to bolster corporate accountability and foster an ethics-driven compliance culture.

Legal Reforms to Reduce Civil-Law Uncertainty

- a. Standardize evidentiary requirements for PMH and issue explicit guidelines on corporate liability through civil-code amendments or interpretive regulations.
- b. The Supreme Court should publish binding jurisprudential guidelines to align interpretations across court levels.
- c. Corporations must clarify SOPs and delineate employee authority while reinforcing internal oversight to close legal loopholes.
- d. Legal practitioners should exercise heightened diligence distinguishing breach-of-contract claims from tort claims, drafting contracts with clear, preventive provisions.
- e. Regulators should enhance protection of bona fide commercial parties to preserve public trust in legal certainty and fairness.

Harmonize Civil- and Anti-Corruption Principles

- a. Develop consistent Supreme Court jurisprudence on contracts vitiated by corruption, explicitly incorporating the clean-hands doctrine into civil practice.
- b. Restrict successive judicial-review petitions to safeguard legal certainty.
- c. Intensify coordination between civil and criminal judges in cases with overlapping issues to prevent contradictory rulings.
- d. Harmonize substantive and procedural rules across fora to strengthen the legitimacy of the national legal system and deter misuse of civil litigation to legitimize corrupt conduct.

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