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**LIMITS ON LAND POSSESSION BY CO-OWNERS FROM THE
PERSPECTIVE OF UNLAWFUL ACTS: A STUDY OF SUPREME
COURT DECISION NUMBER 5480 K/PDT/2025**

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ABSTRACT

Unlawful-act disputes concerning land commonly involve possession by a person who lacks a legal entitlement to the property. Supreme Court Decision Number 5480 K/Pdt/2025 presents a different configuration because Defendant I was acknowledged as a co-owner of the disputed land. This article examines the limits governing the exercise of co-ownership rights, particularly when unilateral possession and use may amount to an unlawful act, and analyzes the legal consequences that follow. The study adopts normative legal research using statutory, conceptual, and case approaches. The analysis shows that co-ownership does not authorize one co-owner to treat the entire property as if it were exclusively theirs. Exclusive control, permanent construction, and use of the land without involving the other co-owner are relevant circumstances in assessing violations of rights and standards of propriety. In this case, the remedy was not monetary compensation but the vacation of the land, demolition of the buildings, and restoration of the property. The article's novelty lies in examining the internal limits of co-ownership through the abuse-of-rights doctrine in connection with Article 1365 of the Indonesian Civil Code.

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INTRODUCTION

In civil law, an unlawful act (*onrechtmatige daad*, hereinafter PMH) is one of the grounds for imposing liability on a party who causes loss to another. Article 1365 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*, hereinafter KUHPerdata) is its principal basis, linking an unlawful act, fault, loss, and the obligation to provide compensation. The meaning of PMH has since developed beyond the violation of written rules. The infringement of another person's rights, the disregard of the actor's own legal obligations, conduct contrary to morality, and behavior inconsistent with propriety may also fall within the scope of PMH (Sari, 2020; Wardhani & Ningsih, 2024).

This broad scope explains why Article 1365 KUHPerdata is frequently invoked to assess land disputes. The disputes may concern possession without legal title, transfers carried out without authority, unilateral control over inherited land, or the use of defective documents in land transactions. Where the actor has no right at all, the central issue is relatively clear. The analytical difficulty arises when the party accused of PMH turns out to have a legal basis for claiming rights over the same object.

The powers attached to ownership are not unlimited. Article 570 KUHPerdata grants owners room to enjoy and use their property, yet that enjoyment must still respect the law and the rights of others. A similar limitation appears in Article 6 of the Basic Agrarian Law (*Undang-Undang Pokok Agraria*, hereinafter UUPA), which affirms the social function of every land right. Santoso (2020) explains that the use of land rights always operates within the framework of their social function and the legal limitations attached to them. Accordingly, an analysis of ownership cannot stop at the existence of the right; it must also assess how that right is exercised.

The issue becomes more sensitive when an object is owned by several persons. Each co-owner has a legal interest in the same property, so no single party may treat it as their exclusive property. Taking control of the entire object, altering it physically, or using it for one's own benefit may affect the position of the other owners if done without their involvement. In a different context, Darmini (2025) likewise shows that acts concerning jointly owned property undertaken without the knowledge or consent of the other owners have the potential to give rise to disputes.

This problem is illustrated by Supreme Court Decision Number 5480 K/Pdt/2025. The case involved Adi Santoso as Plaintiff against Abdullah, PT Bangka Mineral Abadi, and PT Dewa Putera Bangka as Defendants. The Supreme Court held that the disputed land, covering 24,638 m², was jointly owned by the Plaintiff and Defendant I on the basis of Deeds of Transfer and Surrender of Rights (*Akta Pengoperan dan Penyerahan Hak*) Number 10 and Number 11 dated 25 August 2017. Defendant I was therefore not a party entirely lacking a legal relationship with the land.

The core of the dispute thus lay not in whether Defendant I had a right, but in how the jointly owned object was used. The Supreme Court's considerations reveal that a permanent factory building had been erected on the disputed land without the Plaintiff's permission. The Court then characterized Defendant I's unilateral possession and use of the land, while the Plaintiff also held the status of owner, as PMH (Supreme Court Decision Number 5480 K/Pdt/2025). The unlawfulness in this case therefore arose from an exercise of rights that disregarded the rights of the other co-owner, not from Defendant I having no right over the object at all.

Before reaching cassation, the dispute was decided by the Pangkalpinang District Court in Decision Number 51/Pdt.G/2024/PN Pgp dated 4 March 2025. The claim was granted in part; the Defendants were declared to have committed PMH and were ordered to vacate the object, demolish the buildings, and restore the land to its original condition. That decision was upheld by the Bangka Belitung High Court in Decision Number 6/PDT/2025/PT BBL dated 14 May 2025. At the cassation stage, the Cassation Petitioners' appeal was rejected because the Supreme Court found no error in the application of law by the *Judex Facti*.

The case also raises a separate issue concerning compensation. The Plaintiff claimed IDR 50,000,000,000.00 in material damages and IDR 5,000,000,000.00 in immaterial damages. These claims were not granted in full, as the first-instance court only partially granted the lawsuit. The cassation decision does not fully set out the *Judex Facti*'s reasoning on each component of loss. Consequently, the available material only confirms that PMH was proven, while the claim for payment of IDR 55 billion was not granted. The distinction between proving PMH and proving the amount of loss is one of the issues analyzed in this study.

Several previous studies have examined PMH in disputes involving possession of an object by more than one party. Ashiilah and Susilowati (2024) examined unilateral control over inherited land and critiqued the completeness of the judges' reasoning on PMH. Djoenardi et al. (2026) likewise discussed unilateral control over an inheritance estate (*boedel waris*) and emphasized that the status of heir does not remove the obligation to respect the rights of other heirs. Menawati (2026) analyzed PMH in a deed dividing jointly held rights within an inherited-land dispute. These studies are close to the problem of co-ownership, yet the underlying legal relationship rests on inheritance.

Darmini (2025) situates co-ownership in the context of encumbering property as collateral and highlights the importance of the knowledge or consent of the other owners when a legal act affects the jointly owned object. In contrast, Yap et al. (2025) discuss PMH arising in the transfer of land rights through sale and purchase involving defective documents, focusing on the validity of the transfer and the restoration of rights.

At the conceptual level, Salam (2025) explains the abuse of rights, or *abus de droit*, as a correction to the assumption that a right holder may exercise their right absolutely. A formally

valid right may still be challenged if it is exercised in bad faith or causes unjustifiable harm to others. Widyawati et al. (2026) link the abuse of rights to PMH when the exercise of a right exceeds the bounds of reasonableness, propriety, good faith, or the legitimate purpose of that right.

Taken together, the studies reviewed above leave three questions unanswered. First, the studies on unilateral possession (Ashiilah & Susilowati, 2024; Djoenardi et al., 2026; Menawati, 2026) concern relationships grounded in inheritance. Their reasoning turns on the status of heirs and the division of an estate, so it cannot be transferred directly to co-owners whose rights derive from deeds of transfer and surrender of rights. Second, the studies that do address co-ownership or land PMH focus on other legal acts: Darmini (2025) on encumbering jointly owned property as collateral, and Yap et al. (2025) on the validity of a transfer of land rights. None of them asks how far a co-owner may physically possess and use the land, for instance by erecting a permanent building, before that use becomes an unlawful act. Third, the literature on abuse of rights (Salam, 2025; Widyawati et al., 2026) explains the doctrine and its link to PMH in general terms, but it has not been applied to the internal relationship between co-owners, where the actor and the injured party hold rights over the same object. Moreover, none of the reviewed studies examines the remedy: why vacation, demolition, and restoration were ordered while monetary claims were not granted, and what this implies for the difference between proving PMH and proving the amount of loss.

To address these gaps, this study places Decision Number 5480 K/Pdt/2025 in a situation that the previous studies have not examined. Defendant I was neither a party without rights nor an heir merely controlling an inheritance estate, but a party recognized as a co-owner on the basis of deeds of transfer and surrender of rights. The legal question therefore shifts from "does Defendant I have a right?" to "to what extent may that right be exercised when there is another owner of the same object?" The abuse-of-rights doctrine is employed as an analytical tool to answer that question, not as a doctrine explicitly invoked by the Supreme Court.

The novelty of this study is directed at two aspects. First, it examines the internal limits between the rights held by fellow co-owners when one party's exercise of rights narrows the other's room for use. Second, it examines the remedy chosen by the courts, namely vacation, demolition, and restoration of the object, while the monetary claims were not granted. With this focus, the discussion not only tests whether Article 1365 KUHPdata is satisfied but also explains how the conflict between rights is resolved and how the condition of the object is restored.

Based on the foregoing, this study addresses two research questions. First, what are the limits on the exercise of a co-owner's rights over land such that unilateral possession and use can be qualified as an unlawful act? Second, what are the legal consequences of unilateral possession and use of land by a co-owner based on Decision Number 51/Pdt.G/2024/PN Pgp, Decision Number 6/PDT/2025/PT BBL, and Supreme Court Decision Number 5480 K/Pdt/2025? The study

aims to explain the limits on the use of rights by co-owners and to analyze the forms of liability and remedy granted by the courts in that case.

METHOD

This study employs normative legal research because the analysis relies on legal materials, particularly legislation, court decisions, and doctrine. Following Marzuki (2021), normative legal research is used to build arguments on a legal issue by examining the relevant rules, principles, and doctrines. No field data are used in this study. The analysis focuses on the relationship between Article 1365 KUHPdata and the limitation of ownership, the social function of land, co-ownership, and the Supreme Court's reasoning in Decision Number 5480 K/Pdt/2025.

Three approaches are used to examine the issue: the statutory, conceptual, and case approaches. The statutory approach addresses Articles 1365 and 570 KUHPdata, Article 6 UUPA, and the provisions on grounds for cassation in the Supreme Court Law. The conceptual approach is used to elaborate the concepts of PMH, subjective rights, co-ownership, abuse of rights, compensation, and restoration to the original condition. Meanwhile, the case approach is used to examine the legal facts and reasoning set out in Supreme Court Decision Number 5480 K/Pdt/2025.

Primary legal materials comprise KUHPdata, UUPA, the Supreme Court Law, Pangkalpinang District Court Decision Number 51/Pdt.G/2024/PN Pgp, Bangka Belitung High Court Decision Number 6/PDT/2025/PT BBL, and Supreme Court Decision Number 5480 K/Pdt/2025. The cassation decision is treated as the main object in accordance with the focus of the study's title. The first-instance and appellate decisions are used to trace the course of the case, the rulings that were subsequently upheld, and the consistency of outcomes as recorded in the Supreme Court Decision Directory and in the account of the *Judex Facti* contained in the cassation decision.

Secondary legal materials were obtained from books and scholarly articles on PMH, agrarian law, co-ownership, abuse of rights, and compensation. The materials were collected through library research and document study. All materials were then analyzed qualitatively by distinguishing verifiable facts from the decision, the relevant norms, and doctrinal arguments. From these relationships, the study assesses the extent to which the judges' reasoning explains the limits on the use of rights in co-ownership. This study does not draw factual conclusions beyond the information traceable in the cassation decision or the official sources used.

RESULTH AND DISCUSSION

The discussion is divided into five sub-sections: the position of co-owners and the limits on the use of land rights; the application of the elements of PMH in Decision Number 5480 K/Pdt/2025; the abuse of rights as an analytical tool; the legal consequences and forms of remedy

across the series of decisions; and an assessment of the Supreme Court's reasoning and its implications.

1) The Position of Co-Owners and the Limits on the Use of Land Rights

This case must be read by distinguishing two matters: the basis of ownership and the manner in which the right is exercised. Defendant I was recognized as holding a share in the object, so the case cannot properly be equated with encroachment by a person having no right whatsoever. However, the existence of a basis of ownership does not automatically render every act concerning the jointly owned object lawful. In this context, the legitimacy of a right and the propriety of its exercise are two issues that can be tested separately.

Article 570 KUHPerdara shows that an owner's freedom over a thing remains subject to limits derived from the law and the rights of others. In co-ownership, the “others” who must be taken into account are precisely owners holding rights over the same object. Consequently, a co-owner cannot treat the entire land as their exclusive domain if their conduct prevents the other owners from using or deciding on the use of the object.

This limit can also be read together with the principle of the social function of land in Article 6 UUPA. That provision shows that land rights are not designed as absolute powers. Although the concept of social function primarily concerns the relationship between individual rights and broader interests, its logic of limitation remains relevant: the use of land must have regard to the law and to the interests of other parties that are equally protected.

The status of co-ownership in Decision Number 5480 K/Pdt/2025 is based on Deeds of Transfer and Surrender of Rights Number 10 and Number 11 dated 25 August 2017. The Supreme Court stated the total area of the object as 24,638 m² and declared it to be jointly owned by the Plaintiff and Defendant I. This fact is the starting point of the entire analysis. As long as the co-ownership status is accepted by the *Judex Facti* and not found erroneous by the Supreme Court, any act concerning the object must take account of the position of both owners.

The use at issue in this case was not a momentary act. A permanent factory building was erected on the object, altering its physical condition and at the same time determining the function of the land. Such an impact differs from temporary use because it can restrict the other owner's access and choices of use over a longer period. Given the character of that act, the involvement of the other co-owner becomes a relevant consideration.

The findings of Darmini (2025), although set in the context of encumbering jointly owned property as collateral, provide a useful analogy. Disputes may arise when one party takes action concerning a jointly owned object without the knowledge or consent of the other owners. The lesson to be drawn is not that every use always requires formal consent, but that decisions affecting the object as a whole or the legal position of the other owners should not be made unilaterally.

Based on the character of the case, the limits on the use of co-owned rights can be read through several indicators. First, more than one party has a legal basis for rights over the object. Second, one owner's act affects the whole or a substantial part of the object. Third, the act is carried out without the knowledge or consent of the other owner even though that owner's rights are affected. Fourth, the use creates exclusive control, physical alteration, or unilateral benefit that narrows the other owner's ability to enjoy the object.

These indicators do not mean that every difference of will between owners automatically constitutes PMH. The intensity and consequences of the act must still be considered. Temporary use that does not hinder the other party, for example, cannot simply be equated with the erection of a permanent building. The assessment must therefore proceed from the nature of the use, the changes it causes to the object, and its impact on the rights of the other owner.

The Supreme Court's reasoning emphasizes the unilateral nature of Defendant I's conduct. The phrase that the object was used and controlled "unilaterally without the Plaintiff's knowledge" shows that the failure to involve the other owner was a decisive fact. In the context of a jointly owned object, knowledge or consent is not merely administrative; it serves to prevent one party from determining alone the use of a thing that is also the right of another.

In the authors' view, this logic points to a duty of self-restraint in the relationship between co-owners. Each party's right attaches to the same object, so its exercise must leave room for the rights of the other. When one party de facto takes control of the object and eliminates that room, the balance of ownership is disturbed. In such circumstances, the PMH mechanism can be used to correct possession that exceeds its limits.

This characteristic distinguishes Decision Number 5480 K/Pdt/2025 from disputes over possession without right. In possession without right, the main problem lies in the actor's lack of any legal basis. In this case, Defendant I's legal basis was in fact recognized, while the problem lay in how that right was exercised. The abuse-of-rights doctrine is therefore relevant to explain a situation in which a valid right is exercised improperly towards the other owner.

2) Application of the Elements of an Unlawful Act in Decision Number 5480 K/Pdt/2025

To establish liability under Article 1365 KUHPerdata, several elements must be read as a single chain: an act, unlawfulness, fault, loss, and causation. Fuady (2025) and Wardhani and Ningsih (2024) emphasize that the assessment of PMH does not stop at the impression that an act is improper; the connection between the elements must still be explained.

The element of an act is evident from the factual conduct of possessing and using the land, including the construction of a permanent factory. The conduct was active and produced real changes to the disputed object. Given these facts, the existence of an act as the starting point of the PMH analysis is not the most problematic aspect of this case.

On the element of unlawfulness, the Supreme Court explained that PMH may relate to a violation of law, legal obligations, the rights of others, or moral values and propriety. In this case,

the most direct basis is the interference with the Plaintiff's rights as a co-owner. The land was used without the Plaintiff's knowledge, so that the Plaintiff's room to participate in deciding the use of, and to enjoy, the object was restricted.

This shows that unlawfulness does not always depend on the literal violation of a single written provision. Defendant I was not faulted for lacking a right, but because the exercise of that right affected the Plaintiff's subjective rights. This reading is consistent with the development of the concept of PMH, which is no longer confined to acts contrary to written statutes (Sari, 2020).

The meaning of PMH broadened after the Dutch Supreme Court (*Hoge Raad*) decision in *Lindenbaum v. Cohen* in 1919, which located unlawfulness not only in the violation of written rules. This landmark decision is cited here through secondary sources (Sari, 2020; Wardhani & Ningsih, 2024), and the original decision was not directly examined in this study. Under this broader understanding, unlawfulness may also be based on the infringement of another person's subjective rights, the disregard of the actor's legal obligations, conflict with morality, or inconsistency with the propriety, accuracy, and care required in social life (Sari, 2020; Wardhani & Ningsih, 2024). These categories function as alternative standards, so it is not required that all of them be satisfied simultaneously.

In the present case, the infringement of the Plaintiff's subjective rights remains the most evident basis. Nevertheless, the Supreme Court's line of reasoning also opens room to read Defendant I's conduct from the perspective of propriety. The Court included moral values and propriety within the scope of PMH and then assessed the unilateral possession and use without the Plaintiff's knowledge as an unlawful act. Since Defendant I knew the object was jointly owned, the decision to use the land and build a permanent factory without involving the Plaintiff can be regarded as inconsistent with the propriety that ought to prevail between co-owners. This assessment is an analysis of the construction of the decision; the Supreme Court itself did not literally state that Defendant I "violated the principle of propriety" (Supreme Court Decision Number 5480 K/Pdt/2025).

Fault, as the next element, may take the form of intent or negligence. Erecting a permanent factory building on an object known to be jointly owned requires decisions, financing, and possession over a period of time. Based on the facts recorded by the Supreme Court, there is a basis to consider that Defendant I ought to have been aware of the Plaintiff's rights over the same land.

However, the assessment of fault must not exceed the facts available in the decision. This study does not presume motives or internal relationships between the parties that the panel did not explain. What can be assessed is that using a jointly owned object without the other owner's knowledge, particularly when accompanied by permanent construction, is conduct that can legally be attributed to the actor.

Loss is the next element. The Plaintiff claimed IDR 50 billion in material damages and IDR 5 billion in immaterial damages, on the assumption that the possession of the land caused both economic and non-economic consequences. Nevertheless, the rulings that survived to the cassation stage did not order payment of those claims. This shows that proving an infringement of rights and proving the amount of monetary loss are distinct issues.

Loss can be viewed at two levels. First, there is interference with the Plaintiff's legal interests, because the opportunity to use or decide on the use of the jointly owned object was restricted. Second, where such interference is claimed in the form of a sum of money, a more measurable basis is required to explain the value of the loss and its connection to the conduct in question.

Mantili (2019) shows that the measure of immaterial damages is not yet uniform in judicial practice. Suryoutomo et al. (2022) likewise distinguish the evidentiary requirements for material loss, which can be assessed concretely, from immaterial loss, which depends more on reasonableness and judicial assessment. The rejection of a monetary claim therefore does not necessarily negate the existence of loss in the sense of PMH.

Causation can be traced from the relationship between the possession of and construction on the land and the impairment of the Plaintiff's ability to enjoy their rights. The orders to vacate the object, demolish the buildings, and restore the land show that the physical condition created was regarded as a state of affairs that had to be ended and remedied as a consequence of the Defendants' conduct.

When these elements are read together, there is a basis for the Supreme Court to uphold the *Judex Facti*'s decision. There was a real act concerning the object, an infringement of the other owner's sphere of rights, conduct attributable to the actor, interference with the Plaintiff's legal interests, and a connection between the conduct and the condition of the object. Under this construction, Defendant I's status as a co-owner does not eliminate the possibility of liability.

Nevertheless, the Supreme Court's elaboration of the elements of PMH is relatively brief and not set out element by element in detail. In the context of cassation, this is understandable because the Court's focus is to assess whether the *Judex Facti* erred in applying the law. For the development of jurisprudence, however, a more explicit elaboration of fault, loss, and causation would make it easier to use this decision as a reference in other co-ownership disputes.

3) Abuse of Rights as an Analytical Tool for Possession by a Co-Owner

The doctrine of abuse of rights, or *abus de droit*, is useful for reading cases in which a person does hold a right, but the manner of its exercise raises legal problems. Salam (2025) positions this doctrine as a correction to an absolute understanding of rights. Under this approach, the formal existence of a right is not always sufficient to justify an act if the right is exercised in bad faith or causes improper harm to others.

Widyawati et al. (2026) also connect the abuse of rights with PMH when the exercise of a right exceeds the bounds of reasonableness, propriety, good faith, or its social function. The

concept is not always mentioned explicitly in court decisions, but its substance may emerge when judges assess the purpose, manner, and consequences of the use of a right.

The Supreme Court in Decision Number 5480 K/Pdt/2025 did not use the term abuse of rights. Accordingly, the doctrine is not treated as a legal basis directly applied by the panel. In this study, abuse of rights functions as a conceptual tool to explain why an owner may still be held liable for the manner in which they exercise their right.

The doctrine helps separate the existence of a right from the manner of its exercise. Defendant I held a right over the object, but the unilateral use reduced the Plaintiff's room to enjoy the same right. The legal problem thus lies not in the existence of Defendant I's right, but in an exercise of that right that became excessive because it closed off the other owner's opportunity to use the object.

Within this construction, abuse of rights can bridge the concept of ownership and Article 1365 KUHPerdata. Ownership confers powers over the object, while Article 1365 provides the basis for liability when those powers are exercised in a way that infringes the legal interests of others. Conflicts between co-owners can thus be corrected without first negating the ownership status of either party.

The case also shows that infringements of subjective rights are not committed only by parties outside the ownership relationship. Fellow owners may in fact restrict other owners precisely because they have access to and factual power over the same thing. The closeness of one's legal relationship to the object therefore does not preclude the possibility of an infringement of rights.

In the authors' view, this aspect is one of the significant contributions of Decision Number 5480 K/Pdt/2025. The status of right holder does not stand as an absolute justification. The court can still assess how that power was used and what its consequences were for others. This perspective intersects with the social function of land rights and with the development of the abuse-of-rights doctrine in civil law.

The use of the abuse-of-rights doctrine nonetheless requires limits. Not every act by one owner without the consent of the other automatically qualifies as PMH. The assessment should be directed at its concrete consequences, for example whether the act closes off access, reduces benefits, or restricts the powers of the other owner. This analytical limitation is necessary so that the protection of co-owners does not turn into a prohibition on every form of individual use of a jointly owned object.

4) Legal Consequences and Forms of Remedy across the Series of Decisions

The first legal consequence is the declaration that the Defendants committed PMH. This declaration is important because it rejects the assumption that Defendant I's status as a co-owner could justify unilateral possession. The District Court found PMH, the High Court upheld that

outcome, and the Supreme Court rejected the cassation appeal after finding no error in the application of law by the *Judex Facti*.

The next consequence is the obligation to vacate the object. A declaration of PMH alone would not fully restore the Plaintiff's position if factual possession continued. Vacation therefore serves to end the state of affairs regarded as obstructing the exercise of the Plaintiff's rights over the jointly owned land.

The courts also ordered the demolition of the factory building and the restoration of the object to its original condition. These rulings show that civil remedies need not always take the form of monetary payment. In certain circumstances, correcting the physical consequences of the conduct is in fact more relevant. This form of remedy can be understood as an effort to restore the original state, or *restitutio in integrum*, as also discussed by Yap et al. (2025) in the context of disputes over the transfer of land rights.

Specific (in-kind) restoration carries particular significance because the loss in this case is directly related to the condition and possession of the object. If the factory remained standing and the land remained under unilateral control, a monetary payment would not necessarily restore the Plaintiff's ability to exercise their rights. Vacation and demolition, by contrast, directly remove the state of affairs that limited the effectiveness of the Plaintiff's rights as a co-owner.

Unlike this physical remedy, the claims of IDR 50 billion for material loss and IDR 5 billion for immaterial loss were not granted. The cassation decision does reproduce the District Court's ruling rejecting the remainder of the claims, but it does not contain the full reasoning of the *Judex Facti* on each component of loss. Because the grounds for rejection are not fully available in the materials used, this study does not attribute any particular reason, such as insufficient evidence or unreasonable amounts, without verifiable support.

Normatively, proof of PMH must be separated from proof of the amount of monetary compensation. Successfully demonstrating an infringement of rights does not in itself explain how the figure for material loss is calculated. If the loss is linked to the use of the land over a certain period, for example, the basis of calculation must be supported by relevant data such as rental value, lost benefits, income not obtained, or other provable economic measures.

The analysis of propriety also belongs to a different domain from the proof of the amount of loss. The impropriety in the way Defendant I exercised their right helps explain the qualification of PMH, but it does not automatically prove that the loss to be paid amounted to IDR 55 billion. The non-acceptance of the monetary claims therefore cannot be read as a finding that the Defendant's conduct was proper. PMH was still declared proven and a remedy was granted through vacation, demolition, and restoration of the object, whereas the monetary claims required separate proof of the basis for the value of the loss and its causal link.

Immaterial loss raises a different evidentiary problem because its value cannot be determined by simple mathematical calculation. Mantili (2019) notes variation in the practice of

determining immaterial loss, while Suryoutomo et al. (2022) show the significant role of judicial assessment of reasonableness. The case therefore demonstrates the need to separate two questions: whether PMH has occurred and what amount of compensation can be justified.

The legal consequences of the case also touch the position of Defendant II and Defendant III. The District Court's ruling declared all three to have committed PMH, whereas the Supreme Court's most explicit explanation concerning co-ownership was directed at Defendant I. The position of each defendant should therefore be read through their concrete conduct, including possession, use, construction of buildings, or benefits derived from the disputed object.

The cassation decision does not elaborate in depth on how conduct and fault are allocated among the three Defendants. The reasoning on co-ownership is directed explicitly at Defendant I, who was recognized as a co-owner under Deeds of Transfer and Surrender of Rights Number 10 and Number 11, and whose unilateral possession and use of the land, including the construction of a permanent factory, was characterized as PMH. By contrast, the decision as used in this study does not separately explain the roles of PT Bangka Mineral Abadi (Defendant II) and PT Dewa Putera Bangka (Defendant III), whether in possessing the land, constructing or operating the factory, or deriving benefit from it, nor the basis on which each was held liable. Because the decision identifies only the Plaintiff and Defendant I as co-owners, the unlawfulness attributed to Defendants II and III cannot rest on the co-ownership relationship that underpins the finding against Defendant I; it must rest on their own conduct. This study therefore does not infer their roles beyond what the decision records. From an academic perspective, this highlights the importance of attributing conduct in cases involving multiple parties. A more specific explanation of who performed which act, and on what basis liability is imposed, would clarify the relationship between the elements of PMH and the rulings against each defendant.

The Supreme Court also held that the Cassation Petitioners' grounds essentially repeated matters already considered by the *Judex Facti* and did not constitute grounds for cassation under Article 30 of the Supreme Court Law. This consideration reflects the character of cassation review, which focuses on the application of law rather than on a re-examination of all the facts.

The consistency of outcomes at the District Court, High Court, and Supreme Court conveys a coherent normative message: the status of co-owner cannot be used to eliminate the sphere of rights of the other owners. Where unilateral possession has altered the object and restricted another party's ability to enjoy their rights, the court may order the conduct to cease and the original condition to be restored.

From the standpoint of dispute prevention, the case also demonstrates the benefit of a written agreement between co-owners. For uses with broad impact, such as business activities, permanent construction, or leasing, the parties may first regulate the scope of use, duration, the sharing of benefits and costs, and a dispute-resolution mechanism. Such a document is not merely an administrative requirement; it can serve as evidence of the agreed limits of use.

5) Assessment of the Supreme Court's Reasoning and Its Implications

The significance of Supreme Court Decision Number 5480 K/Pdt/2025 lies in its affirmation that co-ownership is not identical to freedom to act over the entire object. The Supreme Court upheld the finding that unilateral use and possession without the knowledge of the other owner constitute PMH. This rule directly addresses the core of the conflict and corrects the assumption that ownership status is always a sufficient justification.

The rule is consistent with the protection of subjective rights in the law of PMH. If the infringement of another person's rights falls within the meaning of unlawfulness, the fact that the actor also holds a share of rights in the object does not remove that assessment. The test lies precisely in whether one party's exercise of rights reduces or eliminates the room for use of the other owners.

The decision nonetheless leaves questions that have not been formulated in detail, particularly regarding the boundary between use that remains reasonable and possession that has become unlawful. In this case, the existence of a permanent factory made the impact of the conduct relatively easy to identify. In other disputes involving lighter forms of use, the standard of limitation may require more detailed analysis.

In the authors' view, the concrete impact on the other owner's rights can serve as one of the main parameters. A use comes closer to PMH the more it removes a co-owner's access, benefit, or ability to participate in deciding the use of the object. Conversely, conduct that does not disturb the legal position or use of the other party should not be immediately qualified as unlawful. This impact-based approach maintains a balance between the freedom to exercise one's rights and the protection of fellow owners.

Another limitation lies in the brevity of the connection drawn between the facts and each element of PMH. This is understandable given that the Supreme Court sits at the cassation level. However, for the formation of rules usable in subsequent cases, a more explicit elaboration of fault, types of loss, causation, and the role of each defendant would strengthen the precedential value of the decision.

Academically, this case brings Article 1365 KUHPerdata together with the abuse-of-rights doctrine. Article 1365 provides the structure of liability, while abuse of rights explains how a formally valid power can be exercised improperly. The combination of the two allows the case to be read more accurately without positioning Defendant I as a party entirely without rights.

The case also underlines the difference between protecting a right and extinguishing a right. There was no declaration that Defendant I lost their status as a co-owner. The court's correction was directed at ending the unilateral possession and restoring the object. Conflicts between owners can thus be resolved by limiting the manner in which rights are exercised without negating the ownership status of either party.

The contribution of Decision Number 5480 K/Pdt/2025 can therefore be seen in its affirmation of the limits on the exercise of rights in co-ownership. An owner retains powers over the object, but the use of those powers must not shut out the equal rights of others. When conduct becomes exclusive, causes permanent changes to the object, and is carried out without involving the other owners, Article 1365 KUHPdata can serve as the basis for protecting the party whose rights are disturbed.

This rule is potentially relevant to co-ownership disputes beyond land where the character of the object and the legal relationship are comparable. Its application, however, cannot be mechanical. Each case still requires an assessment of the form of use, the presence or absence of consent, the impact on the rights of others, and the fulfillment of the elements of PMH based on concrete facts.

CONCLUSION

First, the limits on the use of rights in co-ownership arise when one party's exercise of rights begins to interfere with the other owner's rights over the same object. In Supreme Court Decision Number 5480 K/Pdt/2025, Defendant I remained recognized as a co-owner, yet the unilateral possession and use of the land, accompanied by the construction of a permanent factory without the Plaintiff's knowledge, was held to be PMH. In relation to Article 1365 KUHPdata, the infringement of the Plaintiff's subjective rights is the most evident basis. The analysis of propriety and the abuse-of-rights doctrine reinforce the conclusion that a valid right still has limits in its exercise.

Second, the legal consequences do not stop at a declaration of PMH. The courts ordered vacation, demolition of the buildings, and restoration of the object as a form of specific restoration. The claims of IDR 50 billion for material loss and IDR 5 billion for immaterial loss were not granted, and the cassation decision does not fully explain the *Judex Facti*'s reasons for each component of loss. What can safely be concluded is that proof of PMH is not identical to proof of the amount of compensation. The consistency of outcomes at the District Court, High Court, and Supreme Court also shows that co-owner status does not preclude liability when a right is exercised unilaterally to the detriment of the other owners.

Accordingly, for uses of jointly owned objects that are large-scale, long-term, or alter their physical condition, co-owners should set out their consent in writing, covering the limits of use, duration, the sharing of benefits and costs, and a dispute-resolution mechanism. In similar cases, judicial reasoning would be strengthened if the relationship between fault, loss, causation, and each defendant's conduct were explained in a more structured way. Future research may extend the comparison to decisions on inherited land, marital property, or other forms of co-ownership to test whether the indicators of consent, alteration of the object, exclusive control, and impact on other owners can be developed into more consistent parameters.

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