Jurnal Pengabdian Masyarakat (JPM) Terekam Jejak, Copyright © 2024
Vol. 1, Num. 1, 2024
https://jpm.terekamjejak.com/index.php/home/index
Author: **Zainudin Hasan, Lukmanul Hakim, Immanuel YH Simanjuntak**

Analysis of Criminal Liability for Perpetrators of Embezzlement in Office: Case Study of Decision Number 497/Pid.B/2023/PN Tjk

ABSTRACT

Motor vehicle embezzlement occurs due to opportunity and trust-based reliance, where employees misuse entrusted assets for personal gain, causing company losses. This study analyzes the factors behind office embezzlement (Case Study of Verdict No. 497/Pid.B/2023/PN Tjk) and judicial considerations in sentencing. Using a normative and empirical juridical approach, the research finds that economic pressure and weak supervision drive such crimes. The verdict reflects a balance of justice, legal certainty, and benefit, aligning with Gustav Radbruch's Legal Objectives Theory. Strengthening company oversight and ensuring a judiciary that upholds justice and legal certainty are key recommendations.

Keyword: Causal Factors; Criminal Act; Embezzlement; In Office.

INTRODUCTION

Criminal law is an integral part of a country's legal system, comprising a set of norms that establish obligations and prohibitions, enforced through specific sanctions by legislative bodies. It defines actions that must or must not be performed, the conditions under which penalties can be imposed, and the types of punishments applicable. Law and society are inherently interconnected, akin to two sides of a coin. The Roman phrase ubi societas ibi ius highlights this relationship, emphasizing that law is a fundamental part of social order. Its social function ensures harmony within a community, aiming for justice and legal equilibrium.

Criminal law holds significant importance in legal studies, primarily due to the rising crime rates each year. It plays a crucial role in a nation's legal structure, fostering social order and peace. Legal reforms emerge in response to various offenses occurring across all societal levels. A nation's progress can be measured by its citizens' adherence to the law—greater compliance leads to a more orderly society, whereas low compliance results in lawlessness. As a rule-of-law nation, Indonesia enforces both written and unwritten regulations to maintain order, necessitating sanctions for violations.

Criminal acts, both physical and non-physical, disrupt social harmony. Embezzlement, for instance, is regulated under Indonesia's Law No. 1 of 1946, specifically Articles 372 to 377 of the Criminal Code. According to Lamintang, embezzlement involves the misuse of rights or trust obtained without elements of unlawfulness, often arising from agreements—either written or unwritten—between perpetrators and victims.

Motor vehicle embezzlement frequently occurs due to opportunity and trust. For example, an employee entrusted with a company asset through a working relationship may exploit the situation, selling the goods for personal gain and causing financial losses to the company. A real-life case can be observed in the Tanjung Karang District Court's Verdict No. 497/Pid.B/2023/PN.Tjk, where a driver committed embezzlement.

The aim of this research is to identify and analyze the factors that contribute to the occurrence of embezzlement in office (Case Study of Verdict No. 497/Pid.B/2023/PN Tjk) and the judge's considerations when imposing criminal sanctions on the perpetrator of embezzlement in office (Case Study of Verdict No. 497/Pid.B/2023/PN Tjk).

RESEARCH METHODS

To address the research problem and ensure the validity of the findings, this study employs a normative juridical approach and an empirical approach. The normative juridical approach is a doctrinal legal research method that examines legal norms, rules, and regulations relevant to the issue by analyzing legislation, theories, and literature. Meanwhile, the empirical approach studies the implementation of normative legal provisions (codifications, laws, or contracts) in real-life situations by collecting primary data through direct observation and interviews with relevant sources at the research site.

RESULT AND DISCUSSION

Factors Contributing to the Occurrence of Embezzlement in Office (Case Study of Decision No. 497/Pid.B/2023/PN Tjk)

In conducting field research to gather sources and information regarding the factors contributing to the occurrence of embezzlement in office (Case Study of Decision No. 497/Pid.B/2023/PN Tjk), the researcher interviewed several informants who provided insights into the case, enabling empirical validation of the study. The interviewed informants included:

According to an interview with Mrs. Merya Elfa, the Public Prosecutor at the Bandar Lampung District Attorney's Office, embezzlement in office is a form of crime that involves the abuse of trust given to an individual in their professional capacity. The case study of Decision No. 497/Pid.B/2023/PN Tjk reveals that the defendant, Andri Agustian Bin Hermansyah, who worked as a driver at PT. Mitra Kargo Indojaya, exploited his position to embezzle palm kernel cargo entrusted to him. This case reflects the presence of various factors that drive individuals to commit embezzlement in office, originating from both personal motives and external workplace environments.

One of the main factors contributing to embezzlement in office is economic pressure and financial needs. In this case, the defendant had an irregular income, ranging from IDR 1,000,000 to IDR 3,000,000 per month, depending on his workload. Additionally, he relied on travel allowances provided during deliveries. This income instability could be a trigger for embezzlement, as the perpetrator sought additional earnings through unlawful means.

The second factor is opportunity and weak workplace supervision. In this case, the defendant had full access to the cargo he transported without strict oversight from the company. This lack of supervision provided the defendant with an opportunity to abuse the trust given to him. The Routine Activity Theory by Cohen & Felson (1979) states that crime occurs when there is a motivated offender, a suitable target, and an absence of capable guardianship. In this context, the defendant acted as a motivated offender, the palm kernel cargo became the target, and weak company supervision facilitated the embezzlement.

Moreover, the social environment and workplace culture also influence embezzlement. If a workplace tolerates or fails to strictly address fraudulent behavior, individuals in that environment are more likely to commit embezzlement. In this case, the defendant easily found buyers willing to purchase the embezzled goods without questioning their legitimacy. This situation indicates a permissive culture towards economic crimes in the area.

Aside from economic and environmental factors, psychological factors and individual morality also play a role in office embezzlement. According to criminal psychology theory, individuals with low self-control are more prone to committing crimes when faced with financial temptations. In this case, the defendant consciously decided to sell part of the palm kernel cargo despite knowing that his actions were illegal. A lack of legal awareness and moral integrity further contributed to this crime, as the defendant prioritized personal gain over professional responsibility.

To prevent similar cases from occurring in the future, preventive strategies must address multiple aspects. Companies should strengthen internal supervision systems, such as implementing tracking technology and conducting periodic cargo inspections. Additionally, fostering a culture of integrity and work ethics is essential to increasing employees' legal awareness. From a law enforcement perspective, strict sanctions against office embezzlers can serve as a deterrent, preventing the recurrence of such crimes.

According to an interview with Mrs. Yulia Susanda, a Judge at the Tanjung Karang District Court, the case of embezzlement in office in Decision No. 497/Pid.B/2023/PN Tjk demonstrates that such crimes result from a combination of economic, environmental, psychological, and corporate supervision factors. Therefore, a comprehensive understanding of the causes of embezzlement is crucial in designing effective policies to prevent and address this crime in the future.

The Law Enforcement Theory by Robert Seidman emphasizes three key elements in the functioning of law: (1) law-making, involving the formulation of legal rules by legislative bodies; (2) law-applying, where institutions and law enforcement agencies implement the law; and (3) law-subjects, referring to individuals or communities affected by the law. The effective operation of law requires synergy among these three elements while considering the social and cultural context of society.

Applying this theory to the enforcement of laws on embezzlement in office, Decision No. 497/Pid.B/2023/PN Tjk can be analyzed through Seidman's framework. The legal framework governing office embezzlement is established under Article 374 of the Indonesian Criminal Code (KUHP), which imposes stricter penalties for individuals who commit embezzlement in their professional capacity. However, while legal regulations exist, their effectiveness depends on corporate supervision policies and enforcement mechanisms.

At the law-applying stage, law enforcement agencies such as the police, prosecutors, and courts play a crucial role in handling embezzlement cases. In this case, the defendant was prosecuted and sentenced following thorough investigation and evidence collection. However, legal effectiveness should not only be evaluated based on punishment but also on preventive efforts by both law enforcement and companies to reduce the likelihood of similar incidents. Implementing monitoring systems, internal audits, and ethics training for employees can be proactive measures to ensure the law functions not only as a punitive tool but also as a preventive mechanism.

The law-subjects stage examines the extent to which individuals and society understand and comply with legal regulations. In this case, the defendant was aware of the laws prohibiting embezzlement but proceeded with the crime due to economic pressures and weak oversight. This indicates that legal compliance is influenced not only by existing regulations but also by individuals' legal awareness and workplace ethics. Hence, legal education and the development of a disciplined, integrity-driven work culture are crucial in preventing office embezzlement.

From this analysis, it can be concluded that the effectiveness of law enforcement in office embezzlement cases depends on the interconnectedness of Seidman's three elements. Clear regulations must be complemented by consistent legal enforcement and legal awareness among individuals. If any of these elements function inadequately, the legal system's ability to prevent and address office embezzlement will be hindered.

The Basis of Judicial Consideration in Imposing Criminal Sanctions on Perpetrators of Embezzlement in Office (Case Study of Verdict No. 497/Pid.B/2023/PN Tjk)

In conducting field research to gather sources and information on the basis of judicial considerations in imposing criminal sanctions on perpetrators of embezzlement in office (Case Study of Verdict No. 497/Pid.B/2023/PN Tjk), the researcher interviewed several informants who provided insights into the case, ensuring that the study's objectives could be empirically verified. Some of the informants interviewed include:

Based on an interview with Ms. Yulia Susanda, a Judge at the Tanjung Karang District Court, she explained that in the criminal justice system, judges play a crucial role in determining sanctions for criminal offenders, including cases of embezzlement in office. Judicial decisions must take into account various aspects, both normative legal perspectives and the sociological context surrounding the case. In Verdict No. 497/Pid.B/2023/PN Tjk, the defendant, Andri Agustian Bin Hermansyah, was sentenced under Article 374 of the Indonesian Penal Code (KUHP), which regulates embezzlement in office. The judge in this case considered multiple factors before imposing a sanction on the defendant.

According to Ms. Yulia Susanda, the first consideration in the judge's decision was the fulfillment of the elements of the crime of embezzlement in office as stipulated in Article 374 of the Penal Code. The judge assessed that the defendant had met the key elements of the article, namely intentionally and unlawfully appropriating property, wholly or partially belonging to another person, which was in his possession due to a work relationship. In this case, the defendant misused his position as a driver to embezzle part of the palm kernel cargo that was supposed to be delivered to the intended company.

Furthermore, the judge also considered the evidence presented during the trial. Under Article 184 of the Indonesian Criminal Procedure Code (KUHAP), valid evidence in criminal proceedings includes witness testimony, the defendant's statement, physical evidence, and relevant documents. In this verdict, the panel of judges determined that witness testimony and documentary evidence, such as the delivery letter and weighing slips, strengthened the prosecution's argument that the defendant had indeed committed embezzlement in office. The presence of physical evidence was a crucial factor in clarifying the modus operandi used by the defendant.

In addition to legal aspects, the judge also evaluated the degree of fault and malicious intent (mens rea) of the defendant. In criminal law, intent is a crucial element in determining culpability. In this case, the defendant knowingly sold part of the palm kernel cargo to a third party without permission from his employer. This act demonstrated intentional wrongdoing (dolus) rather than mere negligence (culpa). The judge considered that the defendant was not merely careless in performing his duties but consciously sought personal gain from property that did not belong to him.

Another factor considered by the judge was the impact of the defendant's actions. In this case, the company where the defendant worked suffered a significant financial loss of IDR 7,797,229. The judge determined that the economic impact needed to be considered in imposing the sentence. In many cases, the extent of the financial loss incurred often influences the severity of the punishment imposed on the defendant.

Apart from aggravating factors, the judge also took into account mitigating factors for the defendant. During the trial, the defendant demonstrated a cooperative attitude and admitted his wrongdoing. He also expressed remorse and promised not to repeat his actions in the future. Additionally, the defendant behaved respectfully during the trial and had no prior criminal record. These factors were considered by the judge in determining a proportional sentence.

The judge also referred to the principles of justice, legal certainty, and utility when delivering the sentence. According to the legal theory of A. Rivai, a judicial decision must fulfill elements of justice for all parties, provide legal certainty for both the perpetrator and the victim, and offer benefits to society. In this case, the judge sought to balance these three aspects by imposing a punishment that not only served as a deterrent to the defendant but also as a warning to society to prevent similar offenses.

From the perspective of Robert Seidman's theory on the functioning of law, the effectiveness of law enforcement depends on three main elements: law-making, law-applying, and law-subjects. In this case, the law regulating embezzlement in office is already established in the Penal Code, and law enforcement is carried out through judicial processes by legal authorities. However, the application of the law to legal subjects, in this case, the defendant, is still influenced by various factors such as individual legal awareness and weaknesses in workplace supervision.

Overall, the judge in this case did not merely adhere to the formal legal aspects of the Penal Code but also considered social, economic, and psychological factors in delivering the verdict. The decision reflected the principle of proportionality, ensuring that the imposed punishment corresponded to the level of wrongdoing committed by the defendant. In terms of prevention, this ruling also carries an educational value for society and the workplace, emphasizing the importance of safeguarding the trust.

CONCLUSION

The factors that led the defendant to commit the act include various aspects, such as economic pressure and weak supervision. This indicates that legal compliance is not solely determined by the existence of regulations but also by an individual's legal awareness and ethical responsibility in carrying out their duties.

The judge's ruling in this case reflects a balance between justice, legal certainty, and legal benefit, as emphasized in Gustav Radbruch's Theory of Legal Purpose. This decision demonstrates that the judicial system is not only intended to impose punishment but also to create a fair, firm, and beneficial legal order for society as a whole.

REFERENCES

Andi Hamzah. 2001. Bunga Rampai Hukum Pidana dan Acara Pidana. Ghalia Indonesia. Jakarta.

Mukti Arto. 2016. Praktek Hal Perdata di Pengadilan Agama. Pustaka Pelajar. Yogyakarta

Barda Nawawi Arief. 1996. Bunga Rampai Kebijakan Hukum Pidana. Citra Aditya Bhakti. Bandung,

Leden Marpaung. 1992. Proses Mengani Hal Pidana, Sinar Grafika, Jakarta

Marzuki, P. M. 2011. An Introduction to Indonesian Law. Jakarta, Setara Press.

Moeljatno, 2002, Asas-Asas Hukum Pidana, Rineka Cipta, Jakarta

I Ketut Seregig, Ainita, O., & Pangestu, L. **S.** 2024. *Tinjauan Yuridis Terhadap Tindak Pidana Penggelapan Dalam Jabatan pada PT. Everbright Lampung (Studi Putusan Nomor: 528/Pid.B/2023/PN TJK). SAKOLA: Journal of Sains Cooperative Learning and Law*, 1(2), 609-618.

Lukmanul Hakim, Ramasari, R. D., & Iklima, C. 2025. *Pertanggungjawaban Pelaku Tindak Pidana Penggelapan Barang*. *Helium: Jurnal Ilmiah Hukum*, 3(1), 45-60

Zainudin Hasan. Riko Noval Farid, 2022. *Peneapan sanksi pidana penggelapan dengan jabatan pada pegawai toki erafone di badar lampung*. Jurnal Innovative, Vol.2 No.1

Zainudin Hasan. 2010. *Pertanggungjawaban Pelaku Kejahatan Penggelapan Pada Jabatan*. Jurnal hukum.

Zainudin Hasan. 2020. *Pertanggungjawaban Pelaku Kejahatan Penggelapan pada Jabatan di Perseroan Terbatas*. Keadilan Progresif