

Criminal Liability of Perpetrators of Embezzlement in Position at PT. Tunas Baru Lampung (Study of Decision Number 96/Pid.B/2022/PN.Gns)

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Abstract

Among several criminal acts related to property and goods, there is a crime known as embezzlement where abuse of trust dominates as the main element in the occurrence of this crime. The problem in this research is what factors cause the perpetrator to commit the crime of embezzlement in his position at PT. Tunas Baru Lampung based on Decision Number 96/Pid.B/2022/PN.Gns, What is the criminal responsibility for the perpetrators of embezzlement of office at PT. Tunas Baru Lampung based on Decree Number 96/Pid.B/2022/PN.Gns. The factor that caused the defendant to commit embezzlement was due to economic factors where the defendant wanted to control the goods and then sell them and the money from the sale would be divided into three and the money would be used by the defendant for their daily needs. The defendant is responsible for his actions pursuant to Article 374 of the Penal Code. Jo Article 55 paragraph (1) 1 of the Criminal Code, the defendant was sentenced to nine months in prison.

Keywords: Criminal Liability, Embezzlement, In Position



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INTRODUCTION

The administration of government in a country is not only contained in the elucidation of the 1945 Constitution of the Republic of Indonesia, it has been explained that the State of Indonesia is a state based on law and not based on mere power. So that it can be interpreted that the State of Indonesia is a democratic country and upholds the law based on Pancasila and the 1945 Constitution (Amendment Results). Law is a norm or rule that contains rules and regulations that are coercive and if someone violates them, they will receive legal sanctions. The legal targets to be aimed at are not only people who actually commit acts against the law but also legal actions that might occur and the state apparatus to act in accordance with the applicable laws and regulations.

Behavior that is not in accordance with the norms or can be referred to as a deviation from the agreed norms turns out to cause disruption to the order and peace of human life. Such deviations are usually branded by society as a violation and even a crime. Such a legal system is a form of law enforcement. This is intended so that the law is able to create harmony in society, nation and state. In maintaining harmony in life in society, various kinds of rules are needed as guidelines in maintaining and regulating the relationship between individual interests and the interests of the general public.

Deviations of behavior or unlawful acts committed by the community are caused by various factors including the negative impact of rapid development, globalization, advances in the field of communication and information, advances in science and technology and changes in the style and way of life of some people. bring about fundamental changes in people's lives. Evil is a problem experienced by humans from time to time, even since Adam-Eve evil was

created, that's why evil is an ongoing issue to be discussed. Therefore "Where there are human beings there must be evil"; "Crime is eternal-as eternal as society".

Among several criminal acts related to assets and objects, there is a crime known as embezzlement where abuse of trust dominates as the main element in the occurrence of this crime. The crime of embezzlement is regulated in the Criminal Code (hereinafter abbreviated as the Criminal Code), in Article 372 (ordinary embezzlement), Article 373 (light embezzlement), Articles 374 and Article 375 (embezzlement with weighting) and Article 376 (embezzlement in the family). To provide limitations in this study, a sample of cases that occurred in cases in the jurisdiction of the Gunung Sugih District Court were taken, where the Defendant was declared legally and convincingly guilty of committing the crime of "Jointly Committing Embezzlement in Office".

Starting on Sunday, November 14 2021 at around 07.00 WIB, the Defendant who works as a freelance daily worker at PT. New Tunas Lampung Div. III Tebanggi Besar Sugar Cane Plantation received an order to collect fertilizer from PT. New Tunas Lampung Div. III Tebanggi Besar Sugar Cane Plantation and bring it to the location where the fertilization process will be carried out, namely in the Sugar Cane Plantation Area Block D Div III PT. Tunas Baru Lampung which is located at Kamp. Banjar Ratu, Kec. Way Burial, Kab. Central Lampung as many as 77 (seventy seven) sacks/sacks with assistance/helpers included in the wanted list (hereinafter abbreviated as DPO) and Brother Jayadi (DPO). Then at around 11.00 WIB, Brother J (DPO) who served as a helper unloading the fertilizer from the tractor invited the Defendant and Brother Z (DPO) to embezzle the fertilizer with the aim of selling it.

Based on the description above, the writer wants to do more research on the problem and compiles a thesis entitled "Criminal Responsibility for Embezzlement in Position at PT. Tunas Baru Lampung (Study of Decision Number 96/Pid.B/2022/PN.Gns)". Based on the background above, the authors formulate the problem as follows: What are the factors that cause the perpetrators to commit the crime of embezzlement in positions at PT. Lampung New Shoots based on Decision Number 96/Pid.B/2022/PN.Gns? and what is criminal responsibility for the perpetrators of embezzlement in positions at PT. Lampung New Shoots based on Decision Number 96/Pid.B/2022/PN.Gns?

RESULTS AND DISCUSSION

Factors Causing the Perpetrator to Commit the Crime of Embezzlement in Position at PT. Tunas Baru Lampung based on Decision Number 96/Pid.B/2022/PN.Gns

Law is needed to regulate social life in all aspects of life, both in social life, political life, educational culture and what is quite important is its function and role in regulating economic activity. There are several opinions of experts who explain and put forward the notion of a criminal act, including Van Hammel who has formulated "Strafbaar feit" as an attack or threat to the rights of others. Tien S. Hulukati gave an opinion that a criminal act in Dutch is called "strafbaar feit" is a behavior that is prohibited by law to be committed by a person accompanied by criminal threats (sanctions) that can be imposed by the state on whoever or the perpetrator who made the crime. prohibited behavior.

Simmons defines Strafbaar feit as "Enne Strafbaar getelde, onrechtmatige, met schuld in verband staande handeling van een toerekeningsvatbaar person" which means an act which is punishable by law, contrary to law, committed by a person who is guilty, and that person is considered responsible for his deeds. Formulation of a criminal act. This embezzlement is contained in Article 372 of the Criminal Code from the title XXIV book II as follows: Deliberately possessing in violation of the law an item which is wholly or partly owned by another person and which is under his authority (onder zich hebben) in a manner other than

by committing a crime. Embezzlement is an act of taking without rights by someone who has been given authority, to supervise and be fully responsible for the state, by public or private officials, which intentionally can be interpreted as wanting and knowing, so it can be said that deliberately means wanting and knowing what is being done. The person who commits the act intentionally wants the act and besides that knows or is aware of what is being done. Against the law. According to Rosa Agustina, in determining whether an act can qualify as against the law, four conditions are required: it is contrary to the legal obligations of the perpetrator; conflict with the subjective rights of others; contrary to decency; contrary to decency, thoroughness and prudence. Goods are under the authority of the perpetrator, this element is the main element of "embezzlement of goods" which distinguishes it from other criminal acts concerning people's wealth. Plus that the goods must be under the authority of the perpetrator in another way than by committing a crime. Thus it is illustrated that the person who owns the item is entrusted or can be considered entrusted to the perpetrator. So basically with the act of "embezzlement" the perpetrator does not fulfill the trust that has been delegated or can be considered delegated to him by those who are entitled to an object. Items that are the object of embezzlement must belong to another person either partially or wholly. The words wholly owned by someone means that the taker of the item has no right at all for the item, while the word partially means that the actor has rights in it, for example an inheritance that has not been distributed. Thus an item that does not belong to another person cannot lead to a crime of embezzlement. It is clear and can be known that the embezzled goods belong to other people.

The crime of embezzlement in office is commonly known as embezzlement with weighting, and is regulated in article 374 which reads Article 374 of the Criminal Code "Embracement in office is embezzlement committed by people whose control over goods is due to a work relationship or because of a livelihood or because they get paid for it" The crime of embezzlement is a crime related to morals or mentality and a belief in someone's honesty. Therefore, this crime stems from the existence of a party's trust carried out by the perpetrator of the crime of embezzlement. The crime of embezzlement is one type of crime against human property which is regulated in the Criminal Code (KUHP).

Abdulsyani explained that crime can be seen in various aspects, namely: juridical, social, and economic aspects. The juridical aspect means that a person is considered to have committed a crime if he violates criminal regulations or laws and is found guilty by a court and sentenced. The social aspect means that a person is considered to have committed a crime if he has failed to adapt or deviated consciously or unconsciously from the norms prevailing in society so that his actions cannot be justified by the community concerned. The economic aspect means that a person is considered to have committed a crime if he harms other people by imposing his economic interests on the surrounding community so that he is considered an obstacle to other people's happiness.

Crime in the view of criminology experts generally means human behavior that violates norms (criminal/crime/criminal law) is detrimental, annoying, causes victims, so it cannot be tolerated. Meanwhile, criminology pays attention to crimes, namely: perpetrators who have been found guilty by a court; In white collar crimes, including those that are resolved non-penalty; Discriminated behavior; The population of detained perpetrators; Actions that violate norms; Actions that get a social reaction.

Crime arises due to many things namely:

1. Biological Theory This theory says the physiological factors and physical structure of a person are innate. Through genes and heredity, can lead to behavioral deviations. Inheritance of types of abnormal tendencies can produce deviant behavior and lead to

sociopathic behavior. For example, congenital defects related to criminal traits and mental illness. Biological factors also illustrate that crime can be seen from the physical appearance of the perpetrator, for example, it can be seen from certain biological characteristics such as an asymmetrical face, thick lips, flat nose, and others. However, this cannot be used as a factor causing a crime to occur, only as a theory used to identify a perpetrator of a crime. In addition, evildoers have evil talents that they are born with inherited from their ancestors. Because criminals are born with a legacy of evil actions.

2. **Psychogenesis Theory** This theory says that criminal behavior arises due to intelligence, personality traits, motivation, wrong attitudes, fantasies, rationalization, wrong self-internalization, inner conflicts, controversial emotions and psychopathological tendencies, meaning that evil behavior is a reaction to psychic problems, for example in families that are destroyed by divorce or wrong upbringing because parents are too busy with a career. Another factor that causes crime is the psychology of a criminal, meaning that perpetrators respond to various kinds of personality pressures that encourage them to commit crimes. This factor is dominated by a person who is personally depressed with his life circumstances that are not getting better, or is frustrated. People who are frustrated tend to be easier to consume alcohol to help reduce the existing burdens of life compared to people in normal circumstances. Psychologically someone who is disturbed in social interaction will still have bad behavior regardless of the situation and conditions.
3. **Sociogenic Theory**, This theory explains that the cause of pure sociological or social psychological evil behavior is the influence of deviative social structures, group pressures, social roles, social status, or wrong symbolic internalization. Evil behavior is formed by a bad and evil environment, unattractive school conditions and association that is not directed by moral and religious values. This theory reveals that the causes of crime are influenced by surrounding environmental factors, both the economic, social, cultural, defense and security family environment and technological inventions. This theory directs us that people have a tendency to commit crimes because of the process of imitating their surroundings or better known as the process of imitation.

The crime committed by the defendant has criminal sanctions that have been regulated in law, this is done to protect every victim who is harmed and to make the public afraid, so as to minimize crimes that occur. the aggrieved party, or what is commonly referred to as the victim, Criminal liability is a punishment that must be served by the perpetrator of the crime for the alleged perpetrator of the crime, if proven guilty then he must be responsible for his actions whose punishment has been determined by law and decided by judging judge. Based on the evidence, the facts at trial and these elements, the defendant can be sentenced according to the mistakes he has committed.

Based on the results of the interview with the author, the basis of accountability is the error that is found in the soul of the perpetrator in relation to his behavior that can be punished and based on his psychology, the perpetrator can be blamed for his behavior. In other words, only with this inner connection can the perpetrator be accountable for the prohibited action. The Gunung Sugih District Court said that the actions of the defendant had committed the crime of embezzlement in a position regulated in the Criminal Code, which caused losses to the victim. The factor that caused the defendant to commit embezzlement was due to economic factors where the defendant wanted to control the goods and then sell them and the money from the sale would be divided into three and the money would be used by the defendant for daily needs.

Criminal Liability Against Perpetrators of Embezzlement in Position at PT. Tunas Baru Lampung Based on Decision Number 96/Pid.B/2022/PN.Gns.

Criminal liability implies that every person who commits a crime or violates the law, as defined in the law, that person must be held accountable for his actions according to his mistakes. criminal liability is a mistake, the elements of error are: Able to be responsible; Having willfulness (*dolus*) and forgetfulness (*culpa*) and no reason for forgiveness. Of course, in the field of law, everyone already understands that the judge's consideration in every case handled does provide high legal certainty that is carried out by a judge which is one of the most important things in the administration of justice in Indonesia. give rise to reasons to apply to a higher court. In court proceedings, evidence must be sought because the judge can base his considerations on the evidence to make a decision, to prove that the events proposed actually happened and obtain a true and fair court decision.

Based on the author's interview with Mr. Muhammad Anggoro Wicaksono, S.H., M.H., the judge at the Gunung Sugih District Court explained that in the case carried out by the defendant, the judge had decided to consider a decision based on Decision 96/Pid.B/2022/PN.Gns which the defendant had done , of course it is in accordance with the legal corridor, this can be seen in the judge deciding this case, in general, in making a decision, the judge must base his decision on several pieces of evidence, factors, and careful considerations. Based on the results of interviews with Mr. Muhammad Iqbal, S.H., M.H., it is known that the defendant was tried by the Public Prosecutor because of the existence of an indictment whose contents were: That the Defendant and Mr. Z (DPO) and Mr. J (DPO) on Sunday 14 November 2021, at around 11.45 WIB, or at least another time in November 2021, at the Sugar Cane Plantation Area Block D Div III PT. Tunas Baru Lampung which is located at Kamp. Banjar Ratu, Kec. Way Burial, Kab. Central Lampung or at least in other places which are still included in the jurisdiction of the Gunung Sugih District Court, intentionally and unlawfully possessing goods which are wholly or partly belonging to another person, but which are in their power not because of a crime committed by a person whose control over goods because there is a work relationship or because of search or because they get wages for it, which is done jointly.

That the defendant did not present witnesses mitigating his actions, as stated by the witness, that the defendant had given correct information at trial, the elements of which were: "Whosoever" and "intentionally and unlawfully possessed goods that wholly or partly belongs to another person, but what is in his power is not because of a crime ", "which is committed by a person who controls the object because of his position or because of his work or because he gets paid for it". Based on the results of the examination at trial in accordance with the statements of the witnesses under oath which are interrelated with each other in accordance with the Defendant's statement, legal facts have been obtained, where the incident was committed by the Defendant on Sunday 14 November 2021, at approximately 11.45 WIB at Sugarcane plantation area Block D Div III PT. Tunas Baru Lampung which is located at Kampung Banjar Ratu, Way Pengubuan District, Central Lampung Regency, the Defendant took goods in the form of fertilizer which should have been returned to Div III PT. Tunas Baru Lampung, but the Defendant took the fertilizer to sell.

That the Defendant worked at Div III PT. Tunas Baru Lampung, Central Lampung since 2017, with status as Daily Release and the Defendant has a position/job as a fertilizer transport tractor operator. After the fertilization was completed, the Defendant returned the used sacks of fertilizer and the Defendant received a salary of Rp. 97,000.00 (ninety-seven thousand rupiah) per day and was paid weekly on Fridays and the Defendant received overtime pay of Rp. 140,000.00 (one hundred and forty thousand rupiah per day. The defendant worked as a tractor operator. The director appointed Div III PT. Tunas Baru Lampung on behalf of J in 2017

and each defendant carried out overtime work. The defendant received an overtime work order and stated the position of the defendant as operator.

Based on the matters mentioned above, the Panel of Judges concluded that the elements of Article 374 of the Criminal Code had been fulfilled. Elements of "who did, who ordered to do and who participated in doing"; Considering, that based on the results of the examination at trial in accordance with the statements of the witnesses under oath which are related to each other in accordance with the statements of the Defendant, legal facts have been obtained, whereby the role of the Defendant is to take fertilizer at night and want to sell it together same. The role of Brother Z (DPO) during the day is to drop and store the fertilizer in the sugar cane plantation area and at night pick up the fertilizer and want to sell it together. The role of Brother Jayadi (DPO) during the day is to drop and store the fertilizer in the sugarcane plantation area and at night pick up the fertilizer and want to sell it together.

Based on the matters mentioned above, the Panel of Judges concluded that the elements of Article 55 paragraph (1) 1st of the Criminal Code had been fulfilled. At trial, the judge saw nothing as a justification or reason for pardon to reduce or eliminate the defendant's criminal responsibility. Therefore, the accused can be held accountable for their actions, accept responsibility, be punished by law, and be imprisoned. To convict a defendant, one must first consider the aggravating circumstances, namely the Defendant's actions disturbing the community, as well as the Defendant's actions causing harm to PT Tunas Baru Lampung Div. III Tebanggi Besar Sugar Cane Plantation. The mitigating circumstances of the defendant were to openly admit his actions and be polite in court, the defendant admitted, regretted, did not repeat his actions, and had never been punished. Based on the description above, it can be concluded that the Defendant is responsible for his actions based on Article 374 of the Criminal Code Jo Article 55 paragraph (1) 1st of the Criminal Code of the Criminal Code, where it is known that the judge's considerations in deciding this case were correct and clear against the crime of embezzlement in that position where legally the perpetrator was found guilty of having committed the crime of embezzlement in office, in making a decision the judge must consider several things in the form of evidence in the form of examination by hearing information and the results of witness confessions, because of this the accused was sentenced to nine months in prison.

CONCLUSION

The factor that caused the defendant to commit embezzlement was due to economic factors where the defendant wanted to control the goods and then sell them and the money from the sale would be divided into three and the money would be used by the defendant for daily needs. The defendant is responsible for his actions based on Article 374 of the Criminal Code Jo Article 55 paragraph (1) 1st of the Criminal Code of the Criminal Code, where it is known that the judge's considerations in deciding this case are correct and clear regarding the crime of embezzlement in that position where legally the perpetrator was found guilty of committing the crime of embezzlement while in office, in making a decision the judge had to consider several things in the form of evidence in the form of an examination by listening to statements and the results of witness testimony, because of this the defendant was sentenced to nine months in prison.

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