EFFECT OF STATE FINANCIAL LOSSES RETURNS AGAINST THE DECISION OF THE JUDGE IN CRIMINAL OFFENSES OF CORRUPTION (STUDY OF MATARAM DISTRICT COURT)

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Abstract: *This research is done to assess and analyze the effect of loss. Making state finances, and analyzing criminal liability. This research is normative law with three kinds of approaches namely statutory approach, the conceptual approach and the approach of cases. Its influence on the country's financial indemnification imprisonment, restitution and criminal liability clause 4, 3, and 18 (1), (2), (3). Suggestion of composer in order the judge more carefully in analyzing the case or the problem. The conclusion in returning the fines money it has no influence to the fines money except it's influenced to the changed money, prison and fines.*

Keywords: *effect, fines, prison*

I. INTRODUCTION

Humans cannot escape from social life, help each other, as humans live together in a country, there are various crimes that arise, this is caused by many inadequate communities and the number of unemployed who cause crime, both in the form of theft, murder, pickpocketing, crime of corruption this arises because of the impulse of lust or environmental factors and the encouragement of the family, which is in the spotlight at this time corruption because it is an extraordinary crime so that it must be eradicated in a serious and eradicated seriously not to give a single gap.

Corruption is a bad deed. And must be eradicated in extraordinary ways. Based on Article 4, namely:[1]

The return of state finances or the state's economy does not abolish the involvement of criminal offenders as referred to in article 2 and article 3.

In deciding whether the judge is always based on the law or based on conscience. If the judge gives a sentence of imprisonment and a fine to the defendant, what is the basis of

[1] Tim Redaksi Pustaka Yustisia, *kompilasi Perundangan Antikorupsi*, UU No.31 Tahun 1999 Jo UU No.20 Tahun 2001.

the judgment so that the judge gives a fine to the defendant during the trial process when adjudicating the deed of the defendant?

After various judgments from the judge to achieve justice in the process of the trial to try the defendant, if the defendant returned the proceeds of corruption, it could relieve the defendant or not at all alleviate the defendant or even burden the defendant in Decision No. 29 / Pid. Sus / 2014 / PN. MTR.

The author wants to analyze Decision No. 29 / Pid. Sus / 2014 / PN. MTR. Based on the fact that the author heard when interviewing the accused judge LALU ARWANDI Returning state financial losses of Rp. 45,000,000 million and the defendant was affected by liver disease and the judge felt sorry for the defendant because his stomach was big.

Based on the explanation of the fact that the interviewee compiler above, the compiler was interested because the compiler wanted to know how the Judge gave the fairest decision because the defendant LALU ARMAWADIpunya had a liver disease and the Defendant had returned a portion of the State's financial loss of Rp. 45,000,000 million.

The problems raised in the thesis are (1) What is the effect of returning state losses to a judge's decision in a criminal act of corruption. (2) What is the form of criminal responsibility for the perpetrators of corruption in accordance with Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes?.

The research was conducted aimed at: 1) To find out the legal consequences of terminating the agreement by one of the parties in the contract for procurement of government goods or services. (2) To find out how is the form of criminal liability for the perpetrators of corruption in accordance with Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes?

The benefits to be achieved in this study are (1) Academic Benefits To fulfill the requirements in achieving the Undergraduate Degree (S1) of the Legal Studies Program at the Faculty of Law, University of Mataram. The results of this study are also expected to be able to add references to the Library of the University of Mataram Law Faculty and are expected to be able to provide input for further development of legal science. (2) Theoretical benefits of this research are expected to provide scientific contributions to the development of criminal law, especially theoretical understanding in the field of prevention and eradication of criminal acts of corruption and the assessment of several applicable legal regulations relating to the return of losses to state finances in criminal acts of corruption. (3) Practical Benefits The results of this study can be taken into consideration and contributed to thinking and can provide concrete contributions and solutions for legal practitioners, police, prosecutors, lawyers, related officials in the process and efforts to eradicate corruption in Indonesia and the general public.

The type of legal research used is Normative legal research is research that uses literature sources. The approach used to examine the problems in this study is the Approach to Statute Approach, Conceptual Approach, and Case Approach.

II. RESULT AND DISCUSSION

2.1 The effect of returning state financial losses

2.1.1 Sit in a case

This study examines cases of corruption that have been decided by the Mataram Corruption Court with Decision No. 29 / Pid. Sus / 2014 / PN. MTR regarding PKBM Gemilang. The defendant was detained based on an Order / Determination of Detention;

In this case LALU ARWANDA, whose position as the head of the PKBM was brilliant, had committed a corruption case in which the defendant had the obligation to channel the funds. But in reality there are funds that do not reach until the other side, and there is assistance that is not distributed at all and there are also funds that have been channeled but not in accordance with the contract of cooperation agreement that has been carried out.

2.1.2 Reimbursement of State Financial Losses by the Defendant (Decision No. 27 / Pid. Sus / MTR, pp. 96-146)

In this case, the funds that have been donated to PKBM GEMILANG are Rp. 400,000,000 (four hundred million), the defendant harmed the State's finance in the amount of Rp.168,235,000 and the defendant returned the State's financial loss of Rp.45,000,000 (forty-five million rupiahs), thus the 4th element was detrimental to the state's finance or economy the state has been fulfilled legally and convincingly.

2.1.3 Analysis of the Effect of Returning State Financial Losses (Decision No. 29/Pid. Sus/2014/PN.)

The judge gives a drink fine because of a light reason and if the defendant does not pay the fine, the defendant's property can be confiscated and auctioned off as substitute money.

The legal basis of the form of criminal responsibility is the perpetrator of corruption in accordance with Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crime, Article 4, 3 and Article 18 paragraph 3.

So in this case the judge gave a fine of Rp. 50,000,000 (fifty million). In Article 3 the maximum fine is Rp. 1,000,000,000 (one billion) and a minimum fine of Rp. 50,000,000 (fifty million) if the defendant is unable to pay the fine, it can be replaced with a 1-month imprisonment in accordance with the judge's decision.

To see the effect of returning state financial losses can be described as follows;

a. The defendant must pay compensation to the State Cq. NTB Provincial Dikpora Service Rp. 186,765,000. - (one hundred eighty six million seven hundred sixty five thousand).
b. Prosecution of public prosecutors Imposing criminal charges against Defendant LALU ARMAWADI with 3 (three) years and 6 (six) months of Criminal Prison is reduced as long as the defendant is in City custody and a fine of Rp. 50,000,000 (fifty million rupiah) if the fine is not paid, replaced with a confinement for 1 (one) month. Claims for replacement money of Rp. 231,765,000 million.
c. The money returned by the defendant to the State is Rp. 45,000,000 (forty five million).

So the calculation formula is the amount of money that has been corrupted - substitute money to the State = yield = total (168,235,000-45,000,000 = 123,235,000).

So based on these calculations, the amount of financial compensation to the State is greater than the corruption committed by the defendant. The defendant added Rp. 123,235,000 (one hundred twenty three million two hundred thirty five thousand) this calculation is in accordance with Law No.31 of 1999 Junto Law No. 20 of 2001 in the crime of corruption Article 18 paragraph 1 (b) .. But the judge counts by reducing the money received by the community (231,765,000 -45,000,000 =. 186,765,000) this calculation is wrong because it is not in accordance with Law No.31 of 1999 Junto Law No. 20 of 2001 in the criminal act of Article 18 paragraph 1 (b).

In conclusion, the effect of the repayment of state finance in corruption in matters of compensation has no effect.

The effect of returning the state financial losses has an effect in the case that the substitute money actually gives the judge a decision of substitute money greater than the amount that has been corrupted by the defendant, logically if the defendant returns the State financial loss of Rp. 100,000,000 (one hundred million) in the investigation process, the judge can give a replacement money decision by calculating 231.765,000-100,000,000 = 131,765,000, the results of my interview with the judge, I question the judge, namely why the substitute money is greater than the amount corrupted by the defendant? the judge replied to give the defendant a reddened effect so the defendant did not repeat his actions again.

But after I analyzed the decision, I found the judge's mistake in using calculations. The judge counted based on the number of riots received and reduced the amount of money returned by the defendant, amounting to (Rp.231,765,000-Rp. 45,000,000 = Rp. 186,765,000) this included burdening the accused, which the judge should have calculated with the amount of money that has been corrupted is reduced by the money returned by the defendant (Rp. 168,235,000 - Rp. 45,000.00 = Rp. 123,235,000 million).

Based on these calculations, the judge actually wants to intend to reduce the additional criminal sentence in giving the defendant the decision to replace the money but instead incriminates the defendant because the judge mistakenly used the method of counting, the judge who actually wanted to use the corrupted number instead. the number of riots received by the public so that the judge gives a verdict which is burdensome to the defendant, not to alleviate the defendant in an additional crime, namely substitute money.

If it is associated with imprisonment and a fine in returning state financial losses. In the return of an influential State financial loss in imprisonment can be used as an excuse for the defendant who demands a public prosecutor 3 years 8 months so that the Judge gives a sentence of imprisonment for 2 (two) years and the judge gives a fine of Rp.50,000,000 (five tens of millions of rupiah). Based on Article 4 whose elements are contained in Article 3 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning the Eradication of Criminal Acts of Corruption, it is stated that the criminal fined a minimum of Rp 50,000,000 (fifty million) and a maximum of Rp 1,000,000,000 , - (one billion) and additional Penalty based on Article 18 paragraph 3 if the defendant's assets are insufficient, then he can be sentenced to 3 (months) imprisonment, this prison sentence has been determined in Decision No. 29 / Pid. Sus / 2014 / PN. PKBM GEMILANG MTR, with various reasons for considering incriminating things and mitigating matters.

So the judge gave a sentence of 2 years imprisonment to the defendant and a fine of Rp. 50,000,000 million for reasons of mitigating matters. The reason for the mitigation is a

unity within, the judge provides considerations that can alleviate the defendant so that the judge can give consideration to reduce the threat of additional principal and criminal penalties. In this decision it was burdensome for the defendant Decision No. 29 / Pid. Sus / 2014 / PN. PKBM MTR GEMILANG.

Relief matters:

a. Defendant experienced liver pain;
b. The defendant admitted his actions
c. The defendant is polite;
d. The defendant has never been convicted;
e. The defendant has family responsibilities.

The defendant will not repeat the action because the defendant acknowledged his actions and the defendant's condition at the time of the illness was a large stomach disease, and from the results of interviewing the compiler with the judge, the judge thought he saw the defendant because the defendant was sick when the judge saw his stomach every humans must have a conscience as well as a judge.

2.1 Forms of criminal responsibility for perpetrators of corruption in accordance with Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes

A person who is able to tag his responsibility is able to distinguish between good and bad deeds.

Moeljatno stated that people could not be held accountable (criminal sentences) if he did not commit a criminal act, but even if he committed a criminal act, he would not always be convicted.[2]

In Decision No. 29 / Pid. Sus / 2014 / PN. PKBM MTR GEMILANG. In this case the defendant was able to distinguish between good and bad deeds and during the trial the defendant LALU ARMAWADI was able to follow the proceedings even though the defendant was ill. If you look at the provisions of Article 4, 3 and Article 18 paragraph 2 and 3 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes.[3]

> Article 3
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> "Everyone who aims to benefit himself or others or misuse the authority, opportunity or means available to him because of a position or position that can harm state finances or the country's economy, be punished with a life sentence or the shortest imprisonment. 1 (one) year and no later than 20 (twenty) years and / or a fine of at least Rp. 50,000,000 (fifty million rupiah) and at most Rp. 1,000,000,000.00 (one billion rupiah) '.

[2] Moeljatno, *Asas-asas Hukum Pidana*, Rineka Cipta, Jakarta, 2009, p. 167.
[3] Indonesia, *Undang-Undang tentang Pemberantasan Tindak Pidana Korupsi*, Law No.31 of 1999 Jo Law No. 20 of 2001. TLN Number. 134 Article 3, 4 and 18 paragraph 2

There is an element of every person, benefiting themselves or other people or a corporation, blaming the use of authority, opportunities, facilities or positions available to them and harming State finances.

Article 4

"Returns of state financial losses or the state's economy does not eliminate the criminal offenses referred to in Article 2 and Article 3'.

Article 18 paragraph 2

'' If the convicted person does not pay the replacement money as referred to in paragraph (1) letter b no later than 1 (one) month after the court decision that has obtained permanent legal force, then the prosecutor's property can be confiscated and auctioned to cover the replacement money '.

Article 18 paragraph 3

" In the event that the convict does not have sufficient assets to pay the substitute as referred to in paragraph (1) letter b, then the sentence of imprisonment that does not exceed the maximum threat from the criminal is in accordance with the provisions in this Law and the duration of the sentence is determined in court ruling".

Based on Article 3 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes, criminal acts committed by LALU ARMAWADI result in State financial losses of Rp.168,235,000 (one hundred and sixty eight million two hundred and three fifty-five thousand), solely because they want to enrich themselves or other people or corporations. In Article 4, there is a desire to enrich themselves or other people or corporations in a way that is against the law and detrimental to the State's finances and in this case the defendant returns the State's financial losses of Rp. 45,000.00 million in the investigation process.

The elements contained in Article 3 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crime, are in the Act but the deed is deemed an act. In Decision No. 29 / Pid. Sus / 2014 / PN. PKBM GEMILANG MTR, the judge gives a sentence of imprisonment of 2 years and the judge gives a minimum fine of Rp.50,000,000 (fifty million).

Elements contained in Article 4 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crimes. In Decision No. 29 / Pid. Sus / 2014 / PN. PKBM GEMILANG MTR defendant returned state financial losses of Rp. 45,000,000 (forty five million), the elements are the same as Article 2 and 3 but in Article 4, there is a refund of State financial losses and if the defendant returns the financial losses of the State can only reduce and not remove the defendant's penalty.

The element contained in Article 18 paragraph 2 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crime, Decision No. 29 / Pid. Sus/2014/PN. MTRPKBM GEMILANG the judge gives a decision on substitute money. There is an element if the convict does not pay substitute money within a period of 1 month after a court decision that has permanent legal force, the defendant's assets can be confiscated and auctioned to cover the State's losses.

The element contained in Article 18 paragraph 3 of Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crime, Decision No. 29/ Pid. Sus/2014/PN. PKBM MTR GEMILANG the judge gives a decision on substitute money. The judge gives a Verdict if the convict does not have sufficient assets to pay for compensation, the defendant can be sentenced to 3 months in prison. the amount of substitute money is equal to the amount that has been corrupted (Article 18 paragraph 1 letter b), then is punished with a threat no longer than the maximum threat in the principal sentence and the length of the sentence depends on the decision given by the judge.

III. CONCLUSION AND RECOMMENDATION

3.1 Conclusion

From the descriptions of the discussion above, the researcher can draw conclusions from the problems that have been formulated as follows; (1) In this Decision the effect of the repayment of the State's financial liability in corruption in matters of compensation has no effect, whereas in the substitute money, the Penalty's Penalty and Penalty are influential. (2) Forms of criminal responsibility against the accused, Based on Law Number 31 Year 1999 Juncto Law Number 20 Year 2001 concerning Eradication of Corruption Crime Article 3, Article 4 and Article 18 paragraph 1 (b) paragraph 2 and 3, can subject to imprisonment, fines and substitute money.

3.2 Recommendation

After giving conclusions, here the compiler wants to submit the following suggestions; (1) That the judge should be more careful in considering that there is no miscalculation in giving consideration to the defendant's decision because the judge is the giver of the verdict or right hand of God ... (2) The government and all people must participate in preventing crimes, especially a crime corruption and judges must provide appropriate punishment for the perpetrators of corruption, which is based on fair justice.

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