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Legal Analysis Criminal Accountability for Corruption in the Perspective of Justice (Study of Decision Number: 22/PID.SUS-TPK/2019/PN PTK)

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Abstract. *Corruption occurs systematically and widely, not only harming the country's finances and economy, but also constitutes a violation of the social and economic rights of the community at large, so it is classified as an extraordinary crime so that its eradication must be carried out in an extraordinary way. The purpose of writing this research is to determine the criminal responsibility for corruption in Decision Number: 22 / Pid.Sus-TPK / 2019 / PN Ptk. and to find out the Judge's considerations in making decisions against perpetrators of corruption in Decision Number: 22 / Pid.Sus-TPK / 2019 / PN Ptk from a justice perspective. The research approach used in this study is through a normative legal approach using secondary data obtained through literature studies, then data analysis is carried out using qualitative descriptive analysis. Based on the results of the study, in Decision Number: 22 / Pid.Sus-TPK / 2019 / PN Ptk, the defendant has committed a criminal act of corruption of village funds and has harmed state finances in this case the Nanga Ella Hulu Village Government worth Rp. 830,913,706.00 Defendant Suharman has fulfilled the value of criminal responsibility because the defendant has committed a prohibited act in accordance with that contained in Article 3 Jo. Article 18 of Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the Eradication of Corruption. Then the Panel of Judges sentenced him to 3 (three) years in prison and a fine of Rp. 50,000,000.00 (fifty million rupiah) with the provision that if the Defendant does not pay the fine, it will be replaced with 3 (three) months in prison. Imposing an additional sentence on Defendant Suharman to pay compensation of Rp. 830,913,706.00 (eight hundred thirty million nine hundred thirteen thousand seven hundred and six rupiah) with the provision that if the replacement money is not paid within a maximum of 1 (one) month after this decision and has permanent legal force, then the Defendant's assets will be confiscated and auctioned to cover the replacement money and if the Defendant's assets are insufficient, it will be replaced with*

imprisonment for 2 (two) years by taking into account legal considerations, facts in the trial, witness statements, existing evidence, the Judge's conviction and matters supporting the criminal sanctions imposed.

Keywords: *Criminal; Corruption; Liability.*

1. Introduction

Indonesia is a State of Law (rechstaat), not based on power (machstaat). This means that Indonesia is a state of law that makes law the commander based on Pancasila and the 1945 Constitution, and upholds human rights, and guarantees that all citizens have equal standing before the law (equality before the law).[1]

Corruption is a crime that in recent years has become a hot topic of discussion throughout Indonesian society, both through mass media and print media. Corruption is a crime that is often committed by state officials who are trusted by the public to provide welfare to the community but instead cause state losses because of their actions.[2]

The crime of village fund corruption is an illegal act involving the misuse of funds intended for village development and progress. Village fund corruption can take the form of various activities such as embezzlement, budget misappropriation, manipulation of financial reports and bribery. Common modus operandi in village fund corruption include embezzlement, price mark-ups, fictitious projects, or bribery and gratification.

As in the case experienced by the Defendant Suharman as the Head of Nanga Ella Hulu Village, Menukung District, Melawi Regency, who was convicted of corruption in the management of the 2017 Village Budget, Village Fund Allocation (ADD), Village Funds (DD), tax and Retribution sharing in 2017, and 2016 surplus because it has harmed state finances in this case the Nanga Ella Hulu Village Government amounting to Rp. 830,913,706.00 (eight hundred thirty million nine hundred thirteen thousand seven hundred and six rupiah).

That in 2013 to 2018 the defendant served as the Head of Nanga Ella Hulu Village based on the Decree of the Regent of Melawi Number: 140/128 of 2013. The defendant as the village head has duties and responsibilities, one of which is to manage village finances / APBDesa / village income which in 2017 amounted to Rp. 1,238,835,721, - (one billion two hundred thirty eight million eight hundred thirty five thousand seven hundred twenty one rupiah).

The defendant did not carry out his duties and responsibilities, namely compiling reports including the village government administration report (LPPD) for the 2017 fiscal year, the village government administration information report (LKPPD) for

[1]CST Kansil, 1989, Introduction to Indonesian Law and Legal System, Jakarta, Balai Pustaka, p. 33
[2]Eni Hartati, 2005, Criminal Acts of Corruption, Jakarta, Sinar Grafika

the 2017 fiscal year, the final semester realization report for the 2017 Village Budget, the second phase realization report for the 2017 fiscal year, the accountability report for the realization of the implementation of the 2017 village revenue and expenditure budget. The defendant did not compile these reports because neither the transfer funds nor the financing receipts were realized by the defendant. In the use of the 2017 Village Budget, there was the realization of ADD, DD, Tax and Retribution Revenue Sharing for 2017, and financing expenditures for 2017, and financing expenditures for 2017 that were not implemented amounting to Rp. 881,099,428.00, the unrealized funds were then used by the defendant for gold investment at PT Best Profit Futures Pontianak Branch and for his personal needs amounting to Rp. 830,913,706.00 while the remaining Rp. 185,721.00 is still in the Nanga Ella Hulu cash account.

The management of the Nanga Ella Hulu Village budget based on the 2017 Village Budget, all implementations, both storage and management of the village budget, were carried out directly by the defendant. The defendant has disbursed funds five times based on the Fund Disbursement Order (SP2D) with the amount of funds disbursed amounting to Rp. 1,182,585,721, - (one billion one hundred eighty-two million five hundred eighty-five thousand seven hundred and twenty-one rupiah) and the defendant kept and managed all of the funds himself without involving the village treasurer.

Of the total APBDesa funds for the 2017 fiscal year of Rp. 1,238,650,000.00 (one billion two hundred thirty eight million six hundred fifty thousand rupiah), the Defendant has disbursed only a portion of Rp. 407,736,294.00 (four hundred seven million seven hundred thirty six thousand two hundred ninety four rupiah) for 25 activities in Nanga Ella Hulu Village, while the remaining funds of Rp. 830,913,706.00 (eight hundred thirty million nine hundred thirteen thousand seven hundred six rupiah) were used by the Defendant for personal interests. and funds amounting to Rp. 185,722.00 (one hundred eighty five thousand seven hundred twenty two rupiah) are still in the Nanga Ella Hulu Village cash account.

Departing from the various background descriptions above, especially in the case description explained, the author is interested in answering the problems in a study by raising the title "LEGIDAL ANALYSIS OF CRIMINAL RESPONSIBILITY FOR CORRUPTION IN THE PERSPECTIVE OF JUSTICE (STUDY OF DECISION NUMBER: 22/PID.SUS-TPK/2019/PN PTK)".

2. Research Methods

The approach method used by the author in compiling the journal uses the normative legal method. The research specification used in this study is the descriptive analysis type. In this study, the author emphasizes library research and primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines.

The data collection technique used in this study uses literature study, by collecting data from the results of reviewing library materials and secondary data including

primary legal materials, secondary legal materials and tertiary legal materials. The data analysis technique in this study is carried out with qualitative data analysis, namely data collection using laws, theories and legal principles.

3. Results And Discussion

3.1. Criminal Accountability for Corruption in Decision Number: 22/Pid.Sus-TPK/2019/PN PTK

The Village Head has a great responsibility in managing these very large funds. The transfer of village fund budget allocations to other activities is a serious action that must be accounted for firmly and transparently. The Village Head has a moral, ethical, and legal obligation to manage village funds carefully and in accordance with the needs and interests of the community he leads. The transfer of village funds to other activities not only violates the trust of the community, but can also harm the development and welfare of the community that should receive the allocation.

The Village Head must also be ready to accept responsibility for his actions, both internally at the village government level and externally before the supervisory body and the general public. This includes being ready to face legal consequences if the action violates regulations or laws governing the use of village funds.

Based on the case of decision number 22/Pid.Sus-TPK/2019/PN Ptk, it is explained that the defendant's position in the case is the Head of Nanga Ella Hulu Village, Menukung District, Melawi Regency, who was appointed based on the Decree of the Regent of Melawi Number: 140/128 of 2013 dated May 1, 2013. In 2017, Nanga Ella Hulu Village received a budget of Rp. 1,238,835,721.00 (one billion two hundred thirty-eight million eight hundred thirty-five thousand seven hundred twenty-one rupiah). The defendant has made 5 (five) disbursements of funds, based on the Fund Disbursement Order (SP2D) of Rp. 1,182,585,721.00 (one billion one hundred eighty-two million five hundred eighty-five thousand seven hundred twenty-one rupiah).

That the 2017 Village Budget of Nanga Ella Hulu Village was not realized for the Village activity programs in the fields of government, development, coaching, and empowerment of Nanga Ella Hulu Village where the storage and management and empowerment of the Village were carried out by the Defendant. For the 2016 Village Budget there was a Budget Surplus (SILPA) for financing receipts of Rp. 56,250,000.00 (fifty-six million two hundred and fifty thousand) from cattle seed activities with each RT receiving 2 cows, with a total of 16 cows whose activities were not realized in 2016. The Budget Surplus (SILPA) for financing receipts of Rp. 56,250,000.00 (fifty-six million two hundred and fifty thousand rupiah) was used by the Defendant for personal interests. From the total Village Budget Funds of 2016. 2017 amounting to Rp 1,238,650,000.00 (one billion two hundred thirty eight million six hundred fifty thousand rupiah) was only used by the Defendant for Rp 407,736,294.00 (four hundred seven million seven hundred thirty six thousand two hundred ninety four rupiah), the remaining Rp. 830,913,706.00

(eight hundred thirty million nine hundred thirteen thousand seven hundred six rupiah) was used by the Defendant for personal interests. Village Funds amounting to Rp 185,722.00 (one hundred eighty five thousand seven hundred twenty two rupiah) are still in the Nanga Ella Hulu Village Treasury account.

The Defendant has used the 2017 Nanga Ella Hulu Village Budget to invest in PT Best Profit Futures with a total of Rp. 732,000,000.00 (seven hundred thirty two million rupiah). In addition to investing in PT Best Profit Futures, the Defendant has used funds from the 2017 Nanga Ella Hulu Village Budget for the Defendant's personal interests amounting to Rp. 98,913,706.00 (ninety eight million nine hundred thirteen thousand seven hundred and six rupiah).

A person who has committed a crime must be immediately held accountable that meets the elements of a crime according to what he/she has done and needs to pay attention to the psychological and physical condition of the perpetrator of the crime. In accordance with Law of the Republic of Indonesia Number 20 of 2001, the state as a victim of corruption has the right to enforce the law by revoking, seizing, and eliminating asset rights from the proceeds of corruption through a series of appropriate processes and mechanisms.[3]

Based on the case of decision number 22/Pid.Sus-TPK/2019/PN Ptk, the Defendant Suharman has committed a criminal act of corruption under Article 3 paragraph (1) in conjunction with Article 18 paragraph (1) of Law No. 31 of 1999 concerning the Eradication of Corruption. In describing a formulation of a crime into its elements, a human act or action will be found, with that act a person has committed an act that is prohibited by law. The following are the elements of Article 3 paragraph (1) in conjunction with Article 18 paragraph (1) of Law No. 31 of 1999 concerning the Eradication of Corruption, namely the element of every person; the element of abusing authority, opportunity, or means available to him because of his position or position; the element with the aim of benefiting himself or others, a corporation. With the proof of all the elements in Article 3 in conjunction with Article 18 Paragraph (1) of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption which is a subsidiary charge from the Public Prosecutor (JPU), so according to the author the defendant must be punished and sentenced because he has been proven to fulfill all the elements of the crime from the Article charged against him.

The Panel of Judges of the Pontianak District Court sentenced the Defendant Suherman to 3 (three) years in prison and a fine of Rp 50,000,000.00 with the provision that if the Defendant does not pay the fine, it will be replaced with 3 (three) months in prison. Imposing an additional penalty on the Defendant Suharman to pay compensation of Rp 830,913,706.00 with the provision that if

[3]Dikdik Ramdani, Accountability of the Perpetrators of the Criminal Act of Corruption of the Village Budget Committed by the Head of Gunung Besar Village, North Lampung Regency, Rectum Journal, Vol 5, No 1, January 2023, p. 1538

the compensation is not paid within 1 (one) month after this decision has permanent legal force, the Defendant's assets will be confiscated and auctioned to cover the compensation and if the Defendant's assets are insufficient, it will be replaced with 2 (two) years in prison.

3.2. Halim's Considerations in Handing Down Verdicts Against Corruption Offenders in Verdict Number: 22/Pid.Sus-TPK/2019/PN Ptk

Every process in the Court is always led by a Judge who has the authority to decide a case in Court. In the process of giving a decision, the Judge has the authority or power known as Judicial Power as regulated in Law Number 48 of 2009 concerning Judicial Power. Judicial power can be interpreted as the authority to, in certain concrete situations, determine the legal value of the actions of citizens or certain circumstances based on positive legal principles and link certain legal consequences to those actions or circumstances.[4]

Decision Number 22/Pid.Sus-TPK/2019/PN Ptk basically tried the Defendant Suharman as the Head of Nanga Ella Hulu Village, Menukung District, Melawi Regency who was convicted of corruption in the management of the 2017 Village Budget, Village Fund Allocation (ADD), Village Funds (DD), tax and Retribution sharing in 2017, and 2016 surplus because it has caused losses to state finances in this case the Nanga Ella Hulu Village Government amounting to Rp. 830,913,706.00

The panel of judges sentenced the defendant Suharman to 3 years in prison, a fine of Rp. 50,000,000.00 with a subsidiary of 3 months in prison, and an obligation to pay compensation of Rp. 830,913,706.00.

The Panel of Judges in its decision tried the Defendant based on legal and non-legal considerations. Legal considerations are considerations based on legal facts revealed in the trial and are stipulated by law as things that must be included in the decision. While non-legal considerations are considerations that are based on the detrimental impacts and damage the order in the life of society, nation and state.

After considering the defendant's legal and philosophical facts, then as other considerations before he determines his decision, with his decision, these are the provisions that the defendant must follow in carrying out his sentence, therefore before he determines his decision, he also considers, such as the public prosecutor's indictment, the public prosecutor's demands, and evidence.

The public prosecutor in handling the corruption case by the Head of Nanga Ella Hulu Village in Decision Number: 22/Pid.Sus-TPK/2019/PN Ptk prepared an indictment with subsidiary charges, namely the primary charge of Article 2 Paragraph (1) Jo Article 18 Paragraph (1) letter b of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of

[4]Rachmani Puspitadewi, A Brief Note on the Development of Judicial Power in Indonesia, Pro Justitia Journal, Vol 24 No 1, January 2006, p. 1.

Corruption, subsidiary Article 3 Jo Article 18 Paragraph (1) letter b of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. Then the public prosecutor submitted 6 (six) witnesses and one expert from the BPKP Representative Office of West Kalimantan and 113 (one hundred and thirteen) pieces of evidence.

The Panel of Judges considered the primary and subsidiary charges of the public prosecutor and concluded that the main elements of the subsidiary charge of violating Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 were proven according to law, which consisted of the following elements:

a. Every person's element;

The defendant is a person who is able to be responsible and accountable before the law for actions carried out, whether prohibited by law or permitted, so that the first element is appropriate and fulfilled, namely every person.

b. Elements of Abusing Authority, Opportunities, or Facilities Available to Him Due to Position or Status;

The defendant's actions as the Village Head of Nanga Ella Hulu who used village funds for his personal interests and invested in PT. Best Profit Futures is an act of abuse of authority as the Village Head who is authorized to hold the power to manage village finances and village assets as stipulated in Law Number 6 of 2014.

c. Elements with the aim of benefiting oneself or another person in a corporation;

The defendant's actions in using village funds for his personal interests and investing in PT Best Profit Futures have benefited the defendant himself in the amount of Rp. 830,913,706.00 (eight hundred thirty million nine hundred thirteen thousand seven hundred and six rupiah).

d. Elements that can harm state finances or the state economy;

As in the facts in the trial, from the total APBDesa funds for the 2017 fiscal year of Rp. 1,238,650,000.00 (one billion two hundred thirty eight million six hundred fifty thousand rupiah), the Defendant only used Rp. 407,736,294.00 (four hundred seven million seven hundred thirty six thousand two hundred ninety four rupiah), Rp. 185,722.00 (one hundred eighty five thousand seven hundred twenty two rupiah) is still in the Nanga Ella Hulu Village cash account, the remainder of Rp. 830,913,706.00 (eight hundred thirty million nine hundred thirteen thousand seven hundred six rupiah) was used by the Defendant for his personal interests amounting to Rp. 98,913,706.00 (ninety eight million nine hundred thirteen thousand seven hundred six rupiah) and a total of Rp. 732,000,000.00 (seven hundred thirty two million rupiah) was used by the defendant to invest in PT Best Profil Futures.

According to the author's analysis, based on the Pontianak District Court Decision Number: 22/Pid.Sus-TPK/2019 PN Ptk in this case the Judge in his considerations has been appropriate because it has fulfilled the elements as contained in Article

3 Jo. Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

4. Conclusion

The conclusion of the verdict case number 22/Pid.Sus-TPK/2019/PN Ptk is that the defendant Suharman, who served as the Head of Nanga Ella Hulu Village, was proven to have committed a criminal act of corruption in the management of the Village Budget, Village Funds, Village Funds, and other funds in 2017. As a result of his actions, the state suffered a loss of Rp. 830,913,706.00. The defendant was found guilty because he fulfilled the elements of an unlawful act (actus) and malicious intent (mens rea), in accordance with Article 3 Jo. Article 18 of Law No. 20 of 2001 concerning the Eradication of Corruption. Based on this, the defendant must be held accountable for his actions by undergoing a criminal sentence.

The judge's legal considerations in the verdict of criminal case No. 22/Pid.Sus-TPK/2019/PN Ptk are that the panel of judges sentenced the defendant Suharman to 3 years in prison, a fine of Rp. 50,000,000.00 with a subsidiary of 3 months in prison, and an obligation to pay compensation of Rp. 830,913,706.00. The judge decided this sentence based on legal considerations, trial facts, witness statements, evidence, and the judge's beliefs, so that the sentence imposed is considered appropriate to the actions committed by the defendant.

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