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APPLICATION OF THE LAW ERADICATION OF CORRUPTION IN THE CASE OF BANKING CRIMES IN THE REGIONAL PUBLIC COMPANY OF BANK PERKREDITAN RAKYAT BANK CIREBON

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Abstract

Background. Corruption is a part of special criminal law with different characteristics from general criminal law, especially in terms of procedural law procedures and the substance it regulates. The differences cover various aspects, including special provisions that deviate from the general criminal law norms.

Aims. This study aims to determine how the Investigating Prosecutor applies the Law on the Eradication of Corruption in the case of Banking Crimes.

Methods. This study uses a normative juridical method and is descriptive, using a qualitative approach to secondary data obtained from literature and documentary studies as the main data, and primary data obtained from interviews as supporting data.

Result. The results of the study show that the basis for the Prosecutor's consideration of applying the Law on the Eradication of Corruption in Criminal Cases at Perumda BPR Bank Cirebon includes the politics of Indonesian law in eradicating corruption, the expertise of investigators in uncovering cases, the existence of state financial losses, the status of the suspect's position as an employee salaried by the state, and the fulfillment of elements in Article 2 and Article 3 of the Corruption Law.

Conclusion. The Prosecutor's Office is crucial in enforcing the law, proving elements of criminal acts, and ensuring the return of state losses. In this case, the basis for the Prosecutor's consideration in applying the Corruption Crime Law (Corruption Law) in cases of misappropriation of customer funds and documents at Perumda BPR Bank Cirebon includes the politics of Indonesian law in the eradication of corruption

Implementation. The government and OJK need to encourage auditor certification for SPI members, especially in financial auditing and forensic investigations. Each BPR is required to have an internal auditor who is competent in detecting financial irregularities, including suspicious transaction analysis.

Keywords: Banking Cases, Law Enforcement, Corruption Crimes.

INTRODUCTION

Corruption is a part of special criminal law with different characteristics from general criminal law, especially in terms of procedural law procedures and the substance it regulates. The differences cover various aspects, including special provisions that deviate from the general criminal law norms. The main goal of directly and indirectly eradicating corruption is to minimize the potential for leakages and irregularities in the country's financial management and economic system. With anticipatory steps taken early and as much as possible, the economic system and development process are expected to run more optimally. In the long term, this is expected to encourage sustainable development and growth and improve the welfare of the community as a whole.¹

So far, to ensnare the perpetrators of banking crimes with various existing criminal instruments is not easy. Changes have been made many times to various criminal instruments and various legalization products, including the Law on Banking, the Law on Bank Indonesia, the Eradication of Corruption, the Money Laundering, and the Foreign Exchange Traffic Law.

¹ Edi Setiadi, *Economic Criminal Law* (Ghalia Ilmu, 2010).

However, the inclusion of sharp sanctions does not seem to be able to reduce the *crime rate* of banking in Indonesia.²

In the face of banking crimes that continue to grow, both current and future, efforts are needed to ensure that various forms of violations can be reached and sanctioned based on the provisions formulated in the Banking Law. However, given the limitations of the type of criminal act that is explicitly regulated in the regulation, it is necessary to find a solution that remains in line with the legal principles of *nullum crimen, nulla poena, sine praevia lege poenali* (no crime and no punishment without the rule of law that has been previously determined).

This principle of legality is still upheld in various countries, including Indonesia, and is the primary basis in the preparation of every legislation product that regulates criminal acts or other regulations that include criminal sanctions. In Indonesia, this principle is explicitly regulated in Article 1, paragraph 1 of the Criminal Code (KUHP). Therefore, it is very important to conduct an in-depth study of the Banking Law that regulates criminal sanctions and their relevance to criminal law in dealing with banking crimes. The primary function of criminal law, primarily through the application of sanctions, is as a tool in dealing with crime and a social control mechanism that regulates people's behavior. In this case, criminal law plays a role in a criminal political strategy that aims to reduce crime rates and maintain legal and economic stability in the banking system.³

Previous research has explained that the application of corruption crimes to banking crimes is not sufficient with proof of violations and/or elements of delinquency as mentioned in the Banking Law. Still, criminal acts in banking crimes that can be qualified as corruption crimes based on the provisions of Article 2 paragraph (1) and Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication Corruption Crimes are that there must be elements that are detrimental to the state finances and/or the state economy based on the results of the audit of the Financial Audit Agency,⁴ the research only focuses on the fulfillment of the elements of corruption crimes, but does not explain how the prosecutor's consideration is based in choosing the Corruption Law, instead of using the Banking Law. Then the research conducted by Fajrin found that the basis for consideration by the Investigating Prosecutor, the Investigating Prosecutor, and the Public Prosecutor in

² Dhani Kristianto, Puguh Aji Hari Setiawan, and Dewi Iryani, 'The Application of Corruption Crimes in Banking Crime Cases in Indonesia', *Istinbath: Jurnal Hukum*, 20.1 (2023), pp. 178–97.

³ Rachmadi Usman, *Legal Aspects of Banking in Indonesia* (PT Gramedia Pustaka Utama, 2003).

⁴ Kristianto, Setiawan, and Iryani, 'The Application of Corruption Crimes in Banking Crime Cases in Indonesia'.
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applying the Corruption Law to the criminal case of BPR Bank Pasar Sukoharjo Regency has occurred, among others, there have been state financial losses, the influence of the absorption target of the budget for handling corruption cases and the target number of handling corruption cases which is a benchmark for the achievement of the performance of the Investigator, Investigators, and Public Prosecutors.⁵ Of the many existing research studies, the research focuses on discussing the basis for the Prosecutor's consideration in applying the Law on the Eradication of Corruption Crimes to cases of misappropriation of funds and falsification of customer documents, as well as how the results of court decisions have not been widely implemented.

In its application, many people do not know how the legal approach taken by law enforcement in determining the laws and articles is used. The concept of *systematic lex specialis* emphasizes that more specific rules should be used systematically, considering that they must have three essential elements. First, the material is special; second, the format is special; third, the address is special.⁶ In some cases, the Corruption Law is the primary basis because of abuse of authority and state losses. On the other hand, in certain instances, the Banking Law is more often used because crimes occur in the realm of banking itself. This raises the question of determining the right rules based on the *principle of systematic lex specialis* so that the application of the law becomes more directed and consistent. Therefore, this study aims to analyze the basis of the Investigating Prosecutor's consideration in applying the Law on the Eradication of Corruption in banking criminal cases at the Regional Public Company of Bank Perkreditan Rakyat Bank Cirebon and find out how the Court Decision on the Case of Misappropriation of Funds and Falsification of Customer Documents in the Regional Public Company of Bank Perkreditan Rakyat Bank Cirebon.

RESEARCH METHODS

This research uses a normative juridical method, namely an approach using laws and regulations, literature studies, and documentary studies. This method aims to analyze the law from the normative side, as written in laws and regulations, and how the law is applied and functions in society's reality.⁷ In this study, two main approaches are used: the statutory approach and the legislative approach. The legislative approach involves examining relevant

⁵ Ghilang Pradiantoro Fajrin, 'The Application of the Law on the Eradication of Corruption in the Criminal Case of the People's Credit Bank of the Market Bank of Sukoharjo Regency' (Sebelas March University, 2020).

⁶ Sanusi and Ibn Artadi, *Special Crimes Law* (Indonesian Education Media, 2024).

⁷ Soerjono Soekanto and Sri Mamudji, *Normative Law Research: A Brief Review* (RajaGrafindo Persada, 2001).
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regulations to understand the legal basis governing an issue and analyzing its suitability and implementation.⁸ Meanwhile, a sociological approach is used to know how the law works in practice in the case handling process by conducting observations and interviews with related parties, such as law enforcement officials.⁹

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include laws and regulations, court decisions, and other official documents that are the basis for normative analysis. Secondary legal materials are academic literature such as books, legal journals, and the results of previous research relevant to the research topic.¹⁰ Meanwhile, empirical data is obtained directly from interviews, observations, or surveys illustrating how the law is implemented in practice.¹¹ Data collection techniques are carried out through literature studies and field studies. Literature studies examine legal documents and relevant literature to understand the normative framework on which the research is based.¹² Field studies were conducted to obtain empirical data from respondents or informants who work in law enforcement. Data collection methods included in-depth interviews and observations.¹³

After the data is collected, the analysis is carried out using a qualitative analysis method, namely processing legal materials and empirical data to find patterns of relationships between legal norms and their implementation in society. The analysis uses a descriptive-analytical method, namely explaining the legal reality in the field and comparing it with applicable legal theory.¹⁴

RESULTS AND DISCUSSION

Case of Position of Banking Crime Case at Regional Public Company of Bank Perkreditan Rakyat Bank Cirebon

Mr. Ali Sodikin has been working as a Kanoman Market Depot Staff at Perumda BPR Bank Cirebon since 2008. On September 26, 2022, some Kanoman Market customers of Mr.

⁸ Peter Mahmud Marzuki, *Legal Research* (Kencana, 2017).

⁹ Johny Ibrahim, *Normative and Empirical Legal Research Theory and Methodology* (Bayumedia Publishing, 2005).

¹⁰ Philipus M Hadjon, *The Study of Dogmatic Law* (PT Airlangga University Press, 1997).

¹¹ Lexy J. Moleong, *Qualitative Research Methodology* (PT Remaja Rosdakarya, 2018).

¹² Amiruddin and Zainal Asikin, *Introduction to Legal Research Methods* (PT RajaGrafindo Persada, 2012).

¹³ John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (SAGE Publications, 2014).

¹⁴ Burhan Bungin, *Qualitative Research Methodology: Methodological Actualization Towards Contemporary Variant Diversity* (Rajawali Press, 2021).

Ali Sodikin found a discrepancy between the balance recorded in their Passbook and the balance contained in the bank system. Knowing this, the customers told this incident to fellow traders who were also customers of Mr. Ali Sodikin. As a result, many Kanoman Market traders came in droves to BPR Bank Cirebon to match balances. This balance matching process, which includes Customer Passbooks, School Children's Passbooks, and Certificates of Deposit, takes place from September 26, 2022, to October 17, 2022.

The results of the balance calculation show that there is a difference of Rp 3,198,330,862.00 (Three billion one hundred and ninety-eight million three hundred and thirty thousand eight hundred and sixty-two rupiah) between the notes contained in the customer's Passbook and the balance that is actually in the bank account. This difference comes from 101 Kanoman Market Savings accounts, 206 School Children's Savings accounts, and one deposit account, all of which are customers handled by Mr. Ali Sodikin. Provisional allegations state that the difference results from actions committed by Mr. Ali Sodikin from 2010 to 2022.

The modus operandi carried out by Mr. Ali Sodikin at the School Children's Savings starts from the account opening process, where the customer fills out the form brought by Mr. Ali Sodikin, then, after being processed at the bank, the customer receives a savings certificate. For monthly deposits, customers only need to communicate directly with Mr. Ali Sodikin without coming to the bank, where Mr. Ali Sodikin brings the savings certificate and deposit money to the bank, prints the attachment of the deposit receipt, and then returns the certificate to the customer. However, after a few months, Mr. Ali Sodikin began not to deposit money into the bank and did not return the savings certificate to the customer. This act was done repeatedly, causing some deposits not to be recorded in the bank system. Before the end of the savings period, Mr. Ali Sodikin allegedly forged the Power of Attorney and Withdrawal Slip, which he used to withdraw savings without the customer's knowledge.

On Deposit, customers open an account by filling out a form brought by Mr. Ali Sodikin, which is then processed at the bank. However, after the account opening, the customer never receives the original certificate as proof of deposit ownership. The deposit, which was supposed to have a period of 1 year, turned out to be opened by Mr. Ali Sodikin only for a period of 1 month (December 8, 2021 – January 8, 2022), with the original certificate still held by Mr. Ali Sodikin. Then, on June 8, 2022, Mr. Ali Sodikin asked customers to sign a blank document, taking advantage of the trust of customers who did not know the document's contents. Later, it was found out that the signed document was an extraordinary power of attorney, which

authorized Mr. Ali Sodikin to disburse the deposit without the customer's knowledge. After the disbursement of deposit funds is successful, the money is never given to the customer.

At Tabungan Pasar Kanoman, customers open an account by filling out the opening form brought by Mr. Ali Sodikin. After being processed at the bank, Mr. Ali Sodikin gave the manual passbook, which was still handwritten, to the customer. Customers only need to communicate directly with Mr. Ali Sodikin for deposits or withdrawals without coming to the bank. Mr. Ali Sodikin then brought the Passport and deposited it, recorded the transaction manually, and then returned the updated Passport to the customer. However, in practice, some customers never hold their Passbook, because they are entrusted to Mr. Ali Sodikin. For those who have a Savings Book, every month the book is taken by Mr. Ali Sodikin for the purpose of recording interest. In its implementation, not all customer deposits are deposited into the bank, although the Passbook is still recorded as if the funds have entered the account. This causes a mismatch between the Passbook and the bank system.

In his confession, Mr. Ali Sodikin stated that the difference in funds of Rp 3,198,330,862.00 was used to cover credit installments and savings deposits of customers who had difficulty paying. This action has been going on for years, with the aim of improving the assessment of his performance and the company, so that it does not look like it has bad credit.

Based on the description, the acts committed by Suspect Ali Sodikin have met the elements to be designated as a suspect. They are legally and convincingly proven to have committed the Crime of Corruption, as regulated and criminally threatened in the following legal provisions:

- Primary: Article 2, paragraph (1) Jo. Article 18 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Article 64 paragraph (1) of the Criminal Code.
- Subsidiary: Article 3 Jo. Article 18 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Article 64 paragraph (1) of the Criminal Code.
- More Subsidiary: Article 8 Jo. Article 18 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Law of the Republic of Indonesia

Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Jo. Article 64 paragraph (1) of the Criminal Code.

The Basis of Consideration of the Investigating Prosecutor in Implementing the Law on the Eradication of Corruption in Banking Crimes in Regional Public Companies of Bank Perkreditan Rakyat Bank Cirebon

In handling cases of misappropriation of funds and falsification of customer documents at Perumda BPR Bank Cirebon, the Investigating Prosecutor and Investigator used the Corruption Crime Law, namely Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999. Some of the main articles that were used as the legal basis in this case include Articles 2, 3, and 8 of the law.

Article 2, paragraph (1) stipulates that:

"Any person who unlawfully commits an act of enriching himself, others, or a corporation that can harm the state's finances or the country's economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 4 years and a maximum of 20 years, as well as a fine of at least IDR 200 million and a maximum of IDR 1 billion."

Article 3 states that:

"Any person who, intending to benefit himself, others, or a corporation, abuses the authority, opportunity, or means available to him because of his position or position, which may harm the state finances or the state economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 4 years and a maximum of 20 years, as well as a fine of at least Rp200 million and a maximum of Rp1 billion."

Article 8 explains that:

"A civil servant or a person other than a public servant who is assigned to carry out public office continuously or temporarily, intentionally embezzlements money or securities deposited because of his position, or allows such money or securities to be taken or embezzled by another person, or assists in the commission of such acts, shall be punished with imprisonment for a minimum of 3 years and a maximum of 15 years, and a minimum fine of IDR 150 million and a maximum of IDR 750 million."

In practice, the application of Article 2, Article 3, and Article 8 is not carried out directly but is first constructed based on more specific legal aspects in the Corruption Crime Law. One

of the important elements in these articles is the element of "against the law," which has undergone changes in the perspective of Indonesian law in its development.¹⁵

Previously, the concept of "against the law" in corruption can be reviewed from two aspects, namely:

1. Against the law materially, namely violations of the principles or values that apply in the institution or agency, such as Principle 5C of Banking
2. Formally violating the law, namely, violation of applicable laws and regulations

However, in the current legal developments, the enforcement of corruption crimes focuses more on formally violating the law, that is, if a person violates the rules or procedures established in their institution. In the company context, every employee is bound by internal regulations based on the principle of *good governance*. In the case of Ali Sodikin, the "unlawful" element suspected of the defendant lies in violating the Standard Operating Procedures (SOP) of the Kanoman Market Depot Staff at Perumda BPR Bank Cirebon. As an employee, the defendant should not be allowed to deposit or withdraw customer funds without the direct consent of the customer. However, the defendant took advantage of his position as having greater authority to abuse customers' trust, thus allowing him to embezzle funds. For his actions, the defendant was subject to Article 3 of the Corruption Law, because he had abused his authority to commit acts detrimental to the state's finances.

In handling misuse of funds and falsifying customer documents at Perumda BPR Bank Cirebon, the Prosecutor chose to apply the Corruption Crime Law (Corruption Law) rather than the Banking Law. This election is based on several strong legal considerations, both in terms of national legal politics, legal principles, and the urgency of resolving corruption cases, including:¹⁶

Indonesian Legal Politics in Corruption Eradication

One of the main reasons for the election of the Corruption Law is that Indonesian legal politics prioritizes the eradication of corruption in national law reform. This is reflected in Nawacita and Astacita, which emphasize the importance of eradicating corruption and narcotics crimes as part of legal reform efforts in Indonesia. Thus, in every case with corruption

¹⁵ Novryantino Jati Vahlevi, S.H., M.H, Primary Prosecutor of the Cirebon City District Attorney's Office, interview (Cirebon City District Attorney's Office, March 24, 2025. 10.00).

¹⁶ Ibid.

elements, law enforcement tends to prioritize the implementation of the Corruption Law as a form of commitment to national policies.

Relying on the Investigator's Expertise in Uncovering Cases

Another factor considered in selecting the Anti-Corruption Law is the expertise of investigators in handling the case. Investigators have discretion in determining the most appropriate article to ensnare the perpetrator based on evidence and legal facts found in the field. In this case, investigators assessed that the Anti-Corruption Law was more effective in uncovering and ensnaring the perpetrators than the Banking Law, because the acts committed by the defendant violated banking regulations and caused state financial losses, which is the main element in corruption crimes.

In determining the appropriate law to be applied in a case, the Prosecutor refers to the principle of *lex specialis derogat legi generalis*; a more specific rule will override a more general rule. In this case, two regulations are both special, namely the Corruption Law and the Banking Law. Therefore, it is necessary to apply the principle of *lex specialis systematis*, which assesses the degree of specificity of a law in the broader legal system.

The Anti-Corruption Law has a more specific scope in dealing with criminal acts that harm state finances, including in the regional banking sector, which is part of regionally-owned entities. On the contrary, banking law focuses more on regulating and supervising the banking system than on eradicating criminal acts that directly harm the state's finances. If you look further, it turns out that the Law on the Eradication of Corruption Crimes absorbs or consumes the authority of the Banking Law. The nature of the Law on the Eradication of Corruption by Hazewinkel-Zuringa in the doctrine of criminal law is that it leads to the principle or principle of *lex consumen derogate legi consumtae*.¹⁷

The superiority of the Corruption Law is further emphasized in Article 25, which is contained in the Chapter on Investigation, Prosecution, and Examination in Court Sessions. This article explicitly states that:

"Investigation, prosecution, and examination in court hearings in corruption crimes must take precedence over other cases to resolve the case as soon as possible."

This provision shows that the Corruption Law must be prioritized in cases involving elements of corruption, considering the urgency of resolving corruption cases that have a wide impact on the country's economy and finances. Meanwhile, the Banking Law does not have

¹⁷ Sanusi and Artadi, *Special Crimes Law*.

similar provisions, so it does not give priority to cases related to criminal acts in the banking sector.

There is a State Financial Loss

The main element distinguishing corruption from other crimes is the existence of state financial losses. According to the Corruption Law, state finance covers all state wealth in any form, including funds managed by Regionally Owned Enterprises (BUMD) such as Perumda BPR Bank Cirebon.

In this case, the prosecutor assessed that the defendant Ali Sodikin's actions had caused financial losses to BPR Bank Cirebon, indirectly harming regional finances because BUMD obtained capital from the Cirebon City Government. Therefore, based on legal principles, the misuse of funds in BUMD can be categorized as a criminal act of corruption, not just an ordinary banking violation.

Status of the Defendant's Position as an Officer Paid by the State

In addition to the state's financial losses, another factor that is taken into account is the defendant's status as an employee who receives a salary from the state. Based on the provisions in the personnel regulations, employees in BUMDs who receive funding from local governments can also be categorized as apparatus responsible for managing state finances. Therefore, any act that abuses authority in the management of public funds can fall into the realm of corruption.

Fulfillment of Elements in Article 2 and Article 3 of the Corruption Law

After confirming that this case involved state financial losses and that the defendant was an employee paid by the state, the Prosecutor also conducted an analysis based on Articles 2 and 3 of the Corruption Law, which regulates corruption crimes as follows:

Based on the above provisions, the case that occurred at BPR Bank Cirebon meets the elements of corruption because:

1. There are elements of unlawful acts, namely, acts of embezzlement of customer funds and abuse of authority.
2. There was a self-serving act, where the defendant used his position to access funds without the client's consent.

3. There are state financial losses, because BPR Bank Cirebon, as a BUMD, obtains capital from the local government and contributes to Regional Own Revenue (PAD).

In handling corruption crimes involving regional financial institutions, the Prosecutor referred to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (Corruption Law). This law was drafted to replace Law Number 3 of 1971, with the aim of anticipating legal developments and increasing the effectiveness of preventing and eradicating corruption crimes that are very detrimental to state finances and the state economy.

The articles in the Corruption Law stipulate that state finance includes all state wealth in any form, both separated and not separated from the State Revenue and Expenditure Budget (APBN) or the Regional Revenue and Expenditure Budget (APBD). The main differences between the two concepts are as follows:¹⁸

1. Segregated State Finance, which refers to funds used for business purposes and economic development, such as capital given to State-Owned Enterprises (BUMN) and Regionally Owned Enterprises (BUMD) to be managed and developed to obtain profits. An example of this scheme is SOEs that obtain state capital and are expected to optimize earnings as a form of business management.
2. Unseparated State Finance refers to funds given to local governments to be used for public services such as infrastructure development, education, health, and community welfare. These funds are sourced from the State Budget or APBD and are part of the government decentralization system.

Based on this understanding, the Regional Public Company (Perumda) of BPR Bank Cirebon, as a BUMD, is included in the category of separated state finance, because it obtains capital from the Cirebon City Government to be managed with a business mechanism that generates profits.

In the case of misuse of funds and falsification of customer documents at Perumda BPR Bank Cirebon, the prosecutor interpreted that the actions taken by the defendant were included in the category of corruption crimes based on the following provisions:¹⁹

1. BUMD finance is included in the scope of state finance because the capital provided comes from the Cirebon City Government, which aims to develop and generate regional

¹⁸ Novryantino Jati Vahlevi, S.H., M.H, Primary Prosecutor of the Cirebon City District Attorney's Office, interview (Cirebon City District Attorney's Office, March 24, 2025. 10.00).

¹⁹ Ibid.

revenue. Therefore, any misuse of funds in this institution can be categorized as detrimental to the state's finances.

2. Regional Original Revenue (PAD) generated by BUMD comes from business profits from the state capital. If actions cause losses to BUMDs, this has a direct impact on reducing regional revenue.
3. Articles in the Corruption Law that regulate state finances include:
 - a. Finance that is under the control, management, and accountability of officials of state institutions, both at the central and regional levels.
 - b. Finance managed by SOEs/BUMDs or other legal entities that include state capital, including companies that have capital from third parties based on agreements with the state.

In the case of Ali Sodikin, an employee at Perumda BPR Bank Cirebon, his embezzlement of customer funds has direct implications for state finances because Perumda BPR is part of a BUMD that receives capital from the local government. Therefore, this case is processed based on the provisions of the Corruption Law, not the Banking Law.

In addition to harming the state's finances, the defendant's actions also impact the country's economy, which, according to the Corruption Law, is defined as an economic system prepared based on the principle of kinship and government policies, both at the central and regional levels, for the welfare of the community.

In this case, Perumda BPR Bank Cirebon has an essential role in supporting the regional economy, especially for small and medium communities relying on BPR loans for business activities. If there is misuse of funds or manipulation in the regional banking system, public trust in the regional financial system will be reduced. This can have negative impacts, such as massive withdrawals (bank runs), which can ultimately shake the stability of the regional economy. Therefore, in handling this case, the Prosecutor considered not only financial losses, but also the impact on regional economic stability, so implementing the Corruption Law was considered the most appropriate legal step.

Regarding corruption crimes that occurred at Perumda BPR Bank Cirebon, the Prosecutor's Office has certain guidelines and considerations in determining criminal sanctions against the defendant. This process is carried out with reference to the doctrine of prosecution

in corruption crimes, where the Prosecutor's Office not only considers the punishment aspect but also provides the defendant with the opportunity to return state losses.²⁰

Factors That Ease Claims

One of the main factors that can mitigate the claim is the return of state losses by the defendant. In the prosecution doctrine applied by the Prosecutor's Office, if the defendant voluntarily returns part or all of the state's losses, then this will be a positive consideration in determining the severity of the punishment.

For example, in this case, out of a total of Rp3 billion in funds embezzled, the defendant only returned Rp300 million. This amount is considered too small compared to the total losses incurred, so the Prosecutor's Office believes that the defendant did not show good faith in recovering state losses. Therefore, the maximum charge is still filed against the defendant.

In addition, based on internal guidelines issued by the Attorney General, in the case of corruption, if the defendant returns 50% of the total state losses, the sentence imposed can be reduced by half of the principal crime and the fine. However, since the refund was well below that threshold in this case, there was no reason for the Prosecutor's Office to grant leniency.

Factors That Weigh in on the Claim

On the contrary, several factors can burden the prosecution in this case, including:

a. Defendant's Uncooperative

If the defendant is not cooperative and uses the right to refuse to avoid liability, then the Prosecutor's Office will consider a more severe charge. This is because uncooperative attitudes can complicate the trial and hinder the judicial process. On the other hand, if the defendant shows good cooperation in the investigation and trial process, then this can be a mitigating consideration.

b. Violations of Public Position and Trust

As an employee at Perumda BPR Bank Cirebon, the defendant has the status of a state agent responsible for managing public funds. The defendant should be an example of maintaining the integrity and trust of the public, but instead, he abused his position for personal interests. This abuse of authority is one of the main factors that aggravate the

²⁰ Ibid.

charges because the defendant's actions damaged public trust in regional banking institutions.

c. History of Criminal Acts

Previously, if the defendant had committed a criminal act before, then this would aggravate the charges, because it showed a pattern of behavior that did not comply with the law. However, if the defendant is a criminal for the first time, this can be a mitigating factor.

The basis of the prosecutor's consideration that has been explained previously in applying the Law on the Eradication of Corruption Crimes against the case of misappropriation of funds and falsification of customer documents at the Regional Public Company of Bank Perkreditan Rakyat Bank Cirebon, the author considers that it does not contradict the existing values and norms, because it is in line with the Court's decision that legally and convincingly decided that Ali Sodikin was guilty of committing the crime of corruption continuously as charged in the subsidy charges.

Court Decision on the Case of Banking Crimes in the Regional Public Company of Bank Perkreditan Rakyat Bank Cirebon

Legal *Reasoning* is considered a key element in every judge's decision, making it the core of the judicial process. In the judicial power system, judges play a crucial role, considering that their main task is to assess and adjudicate cases submitted to them based on laws that reflect a sense of justice for all parties involved. The essence of justice itself lies in the protection of rights and the regulation of obligations, to create a harmonious balance in social life.²¹ Therefore, judges not only function as textual implementers of the law but also have a role as lawmakers who interpret and adapt the rule of law to evolving social needs. In this context, the independence of judges is the main principle, where they do not just become a "funnel" of the law but also shape and give meaning to legal provisions so that they remain relevant and fair in their application.²²

Based on Decision Number 105/Pid.Sus-TPK/2024/PN.Bdg, the Corruption Crimes Court at the Bandung District Court Class 1A stated that the defendant Ali Sodikin Bin (Alm) Marupun was not legally and convincingly proven guilty of committing a criminal act as charged in the primary indictment. Therefore, the defendant was acquitted of the primary charge. However, the court stated that the defendant Ali Sodikin Bin (Alm) Marupun was

²¹ Satjipto Rahardjo, *Law Enforcement Issues* (Sinar Baru, 1983).

²² Antonius Sudirman, *The Judge's Conscience and His Verdict* (PT Citra Aditya Bhakti, 2007).

legally and convincingly proven guilty of committing the crime of continuous corruption as charged in the subsidiary indictment.

For his actions, the court sentenced the Defendant to imprisonment for 3 (three) years and 6 (six) months, as well as a fine of Rp400,000,000.00 (four hundred million rupiah). If the Defendant does not pay the fine, it will be replaced with imprisonment for 6 (six) months. In addition, the court also imposed an additional penalty on the Defendant with the obligation to pay compensation of Rp3,200,675,568.00 (three billion two hundred million six hundred and seventy-five thousand five hundred and sixty-eight rupiah). The amount will be calculated by the return that the Defendant has made in the amount of Rp307,261,100.00 (three hundred and seven million two hundred and sixty-one thousand one hundred rupiah) and the submission of the Certificate of Ownership Number 923 on behalf of Masroh (the Defendant's wife) to the Regional Public Company (Perumda) of Bank Perkreditan Rakyat (BPR) Bank Cirebon.

If the defendant does not pay the replacement money within 1 (one) month after the verdict obtains permanent legal force, the prosecutor can confiscate his property and auction it to cover the obligation. If the Defendant does not have sufficient property, he will be imprisoned for 2 (two) years in place of the payment of unfulfilled compensation.

CONCLUSION

The Prosecutor's Office is crucial in enforcing the law, proving elements of criminal acts, and ensuring the return of state losses. In this case, the basis for the Prosecutor's consideration in applying the Corruption Crime Law (Corruption Law) in cases of misappropriation of customer funds and documents at Perumda BPR Bank Cirebon include the politics of Indonesian law in the eradication of corruption, the Principles of *Lex Specialis Derogat Legi Generalis* and *Lex Specialis Systematis*, and depends on the investigator's expertise in uncovering the case, the existence of state financial losses, the status of the suspect's position as an employee paid by the state, the fulfillment of the elements in Article 2 and Article 3 of the Corruption Law.

The Prosecutor's Office chose to apply the Corruption Law (Law Number 31 of 1999, jo. Law Number 20 of 2001) rather than the Banking Law because this case involved state financial losses and the abuse of authority by employees who were salaried by the state. The Prosecutor's Office also uses the principle of *lex specialis systematis*, where the Corruption Law is considered more specific in handling criminal acts involving state finances than the Banking Law.

The government and OJK need to encourage auditor certification for SPI members, especially in financial auditing and forensic investigations. Each BPR is required to have an internal auditor who is competent in detecting financial irregularities, including suspicious transaction analysis.

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