ABSTRAK

PERTANGGUNGJAWABAN PIDANA PELAKU PERBUATAN BERLANJUT TINDAK PIDANA PENIPUAN INVESTASI DAN TINDAK PIDANA PENCUCIAN UANG (Studi Terhadap Putusan Nomor 336/Pid.B/2023/PN Jkt.Pst)

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Konteks tindak pidana penipuan investasi dan pencucian uang, pelaku kerap melakukan serangkaian tindakan yang saling berkaitan dalam jangka waktu tertentu. Penelitian ini dilatarbelakangi oleh maraknya kasus penipuan bermodus investasi yang kemudian dilanjutkan dengan pencucian uang untuk menyamarkan asal-usul dana ilegal. Dalam putusan tersebut, terdapat kejanggalan karena hakim tetap mencantumkan unsur penggelapan (huruf q) dalam Pasal 2 UU Nomor 8 Tahun 2010 tentang Tindak Pidana Pencucian Uang, namun hanya menjatuhkan putusan berdasarkan Pasal 378 KUHP tentang penipuan, tanpa menyertakan Pasal 372 KUHP tentang penggelapan. Kejanggalan ini menjadi alasan utama untuk meneliti lebih dalam apakah putusan hakim telah sesuai secara hukum. Permasalahan yang dikaji meliputi dasar pertimbangan hakim dalam menjatuhkan putusan terhadap tindak pidana tersebut, serta pertanggungjawaban pidana pelaku dalam perbuatan berlanjut, dengan fokus pada Putusan Pengadilan Negeri Jakarta Pusat Nomor 336/Pid.B/2023/PN Jkt.Pst atas nama terdakwa Iwan Sabar.

Penelitian ini menggunakan metode penelitian hukum normatif yang dilengkapi dengan wawancara yakni dengan melakukan kajian mengenai hukum normatif yang berlaku. Dalam penelitian normatif terutama menggunakan bahan-bahan kepustakaan sebagai sumber data penelitian atau disebut (*Library Research*) dan menggunakan pendekatan perundang-undangan *(Statue Approach*). Narasumber dalam penelitian ini terdiri dari dua orang dosen Hukum Pidana Fakultas Hukum Universitas Lampung yang memberikan informasi untuk memperkuat data yang diperoleh. Teknik analisis data yang digunakan adalah metode kualitatif dengan pendekatan normatif, yang menggambarkan fakta hukum dan menarik kesimpulan secara deduktif dari temuan khusus ke kesimpulan umum.

Hasil penelitian ini menegaskan bahwa hakim memiliki kewenangan untuk menilai rangkaian perbuatan sebagai perbuatan berlanjut (*voortgezette handeling*), terutama dalam kasus penipuan dan pencucian uang. Penilaian tersebut didasarkan pada dakwaan jaksa, keterkaitan antara tindak pidana asal dan lanjutan, serta kesatuan motif terdakwa. Pasal 64 KUHP dan unsur *mens rea* menjadi kunci dalam pertimbangan yuridis, filosofis, dan sosiologis hakim. Putusan pidana 10 tahun penjara dan denda Rp4 miliar dinilai proporsional, mengingat peran terdakwa bukan sebagai aktor utama. Hakim menilai unsur pertanggungjawaban pidana telah terpenuhi, termasuk adanya kesalahan, niat jahat, dan tidak adanya alasan penghapus pidana. Meskipun bukan pelaku intelektual, terdakwa tetap dipidana karena peran aktifnya, dan putusan ini menunjukkan pentingnya pendekatan individual yang adil dalam konteks hukum dan sosial.

Mengingat kompleksitas dan besarnya kerugian dalam kejahatan ekonomi seperti penipuan dan pencucian uang, penulis menyarankan peningkatan kapasitas aparat penegak hukum dalam memahami pola pertanggungjawaban pidana, termasuk konsep perbuatan berlanjut dan *mens rea* kolektif. Setiap peran pelaku, meskipun tidak dominan, harus dinilai secara proporsional. Pemerintah, OJK, dan PPATK perlu memperketat regulasi terhadap investasi ilegal serta meningkatkan literasi keuangan masyarakat untuk mencegah korban baru, khususnya di kelompok rentan. Putusan terhadap terdakwa yang kooperatif dan belum pernah dihukum layak diapresiasi, namun efektivitas hukuman perlu dievaluasi guna menciptakan efek jera. Di samping itu, mekanisme restitusi harus diperkuat agar keadilan benar-benar dirasakan oleh korban.

Kata Kunci: Pertanggungjawaban pidana, perbuatan berlanjut, pencucian uang

ABSTRACT

CRIMINAL LIABILITY OF PERPETRATORS OF CONTINUOUS ACTS IN INVESTMENT FRAUD AND MONEY LAUNDERING CRIMES (A Study on Decision Number 336/Pid.B/2023/PN Jkt.Pst)

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In the context of investment fraud and money laundering, perpetrators often commit a series of interconnected acts within a certain period. This research is motivated by the increasing number of fraud cases disguised as investment schemes, followed by money laundering to conceal the origin of illicit funds. A notable irregularity in this decision is that the judge acknowledged the element of embezzlement (point q) under Article 2 of Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering, yet only rendered judgment based on Article 378 of the Criminal Code on fraud, without including Article 372 of the Criminal Code on embezzlement. This irregularity prompted further analysis to assess whether the ruling was legally sound. The main issues examined include the criminal liability of offenders in continued acts (voortgezette handeling) and the legal considerations of judges in rendering verdicts on such crimes, focusing on the Central Jakarta District Court Decision Number 336/Pid.B/2023/PN Jkt.Pst involving the defendant Iwan Sabar.

This study applies a normative legal research method complemented by interviews, focusing on an analysis of applicable legal norms. Normative research primarily relies on library materials (Library Research) as the main data source and employs a statute approach. The key informants in this study are two lecturers from the Criminal Law Department of the Faculty of Law, University of Lampung, who provided expert insights to support the findings. The data analysis technique used is qualitative with a normative approach, which involves describing legal facts and drawing conclusions deductively from specific findings to general principle

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The findings of this research affirm that judges have the authority to assess a series of acts as continued offenses (voortgezette handeling), particularly in cases involving fraud and money laundering. This assessment is based on the legal framework presented by the prosecutor, the close connection between the predicate and subsequent offenses, and the unity of the defendant's intent. Article 64 of the Indonesian Criminal Code (KUHP) and the element of mens rea serve as key considerations in the judge's juridical, philosophical, and sociological reasoning. The imposed sentence 10 years of imprisonment and a fine of IDR 4 billion is deemed proportional, given that the defendant was not the principal perpetrator. The court found that all elements of criminal responsibility were fulfilled, including culpability, malicious intent, and no reason for criminal deletion. Although not the intellectual author of the crime, the defendant was still held liable due to his active role, illustrating the importance of a fair and individualized approach in both legal and social contexts.

Considering the complexity and significant losses associated with economic crimes such as fraud and money laundering, the researcher recommends enhancing the capacity of law enforcement officials investigators, prosecutors, and judges in understanding the structure of criminal liability, including the concepts of continued acts and collective mens rea. Every actor's role, even if minor, must be evaluated proportionately. The government, along with financial authorities such as the Financial Services Authority (OJK) and the Financial Transaction Reports and Analysis Center (PPATK), should tighten regulations on illegal investment schemes and improve public financial literacy, especially among vulnerable groups. While the verdict against a cooperative and previously unconvicted defendant is commendable, the effectiveness of the punishment in achieving deterrence must be reviewed. Furthermore, restitution mechanisms should be strengthened to ensure justice is not only symbolic but tangibly experienced by the victims.

Keywords: Criminal liability, continuous acts, money laundering