

Law Enforcement of the Criminal Act of Embezzlement of Time Deposits

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Abstract

An attitude of action or legal behavior usually has a certain influence when it relates to the behavior of other parties, an attitude of action or legal behavior is considered effective if the attitude or behavior of the other party leads to the desired goal, meaning whether the other party obeys the law. Criminal liability for future embezzlement by cooperative management is an act that is threatened with Article 374 of the Criminal Code because the cooperative management commits a crime by using the position as a cooperative manager, so that the manager who acts, the manager who is responsible, has the ability to be responsible and there is no excuse for forgiveness. .

Keywords: Law Enforcement, Embezzlement, Crime.

preliminary

According to Muladi and Barda Nawawi Arif, crime or crime is a form of deviant behavior because a form of deviant behavior that is always present and inherent in every form of society, no society is lonely with crime. ¹ One of the efforts to overcome crime is to use criminal law with sanctions in the form of criminal.² In simple terms it can be said that a person is obedient if he acts or behaves in accordance with the expectations of the formation of the law. ³ Behavior that is in accordance with applicable legal norms is not a problem, behavior that is not in accordance with legal norms can usually cause problems in the field of law and harm the community. ⁴

¹ Muladi, Barda Nawawi Arif, Criminal Theories and Policies, (Bandung: Alumni, 1998), p.148.

² Teguh Prasetyo, Criminalization in the Second Cet Criminal Law, (Bandung: Nusa Media, 2011), p.19.

³ *ibid*, p.5

⁴ Bambang Waluyo, Criminal and Criminal, (Jakarta: Sinar Graphic, 2004), p.1.

According to Lamintang in criminal law there are differences from other laws in general, namely in that people recognize the existence of an intention to give a legal consequence in the form of suffering that is special in the form of a punishment to those who have committed a violation of the requirements or prohibitions. - the prohibition specified therein.⁵Crimes can be committed by anyone and anywhere, especially in the savings and loan business activities of the Savings and Loans Cooperative (KSP) where the cooperative management does not carry out the requirements and prohibitions stipulated in the savings and loan business activities according to the provisions of the legislation, thus causing losses for the cooperative management. itself and society.

Regarding the business activities of savings and loan cooperatives, even though the management has powers, he or she must be personally responsible for organizational losses if this is due to negligence in matters such as misuse of organizational money, neglecting duties, carrying out their duties carelessly, and etc. What is the Criminal Accountability of Cooperative Management in the Crime of Embezzlement of Time Deposits?

Time Deposit Embezzlement Law Enforcement

An important part of the criminal system is to establish a sanction because its existence will provide direction and consideration of what should be used as a sanction in a criminal act to enforce norms. According to Sudarto, punishment or punishment by a judge is the meaning of "punishment" in a narrow sense which includes only the field of criminal law, and the meaning is the same as sentence or *veroordeling*.⁶and punishment comes from the basic word of law, so that it can be interpreted as establishing the law of an event that does not only concern the field of criminal law, but also civil law, because this article revolves around criminal law, the term must be narrowed down its meaning, namely punishment. in a criminal sense, that is, often by punishment or giving or imposing a crime by a judge. Barda Nawawi Arief, if the notion of sentencing is defined broadly as a process of giving or imposing

⁵ P.AF Lamintang, *Fundamentals of Criminal Law*, (Bandung: Citra Aditya Bakti, 2013), p.16.

⁶ M. Sholehuddin, *Sanction System in Criminal Law, Basic Idea of Double Track System and Its Implementation*, (Jakarta: Raja Grafindo Persada, 2003), p.114.

a crime by a judge, then it can be said that the sentencing system includes the notion of⁷ :

- a. The whole system (laws and regulations) for sentencing;
- b. The whole system (laws and regulations) for giving/imposing and implementing criminals;
- c. The whole system (laws and regulations) for the functionalization/operationalization/concretization of crimes;
- d. The whole system (law) that regulates how the criminal law is enforced or operated concretely so that

The business activity of collecting time deposit funds is a form of savings in KSP business activities, collecting funds from the public is an active act carried out by the perpetrators so that the public submits their funds to the person concerned to be stored as demand deposits, time deposits, certificates of deposit, savings, or other forms. which is equivalent to that while what is meant by the community includes individuals or legal entities or business entities or other parties who submit funds for deposit. Cooperative business entities are managed and financed by members, this can be seen from the cooperative's income sourced from members' deposits.⁸ Cooperative is a legal entity which is an economic entity that has a complete working mechanism and builds a system consisting of components within the cooperative organization and interacts with each other and moves towards achieving its goals with the established rules in the form of laws and regulations. the applicable government laws and regulations or from the articles of association and by-laws that have been agreed upon in the members' meeting.

In stating what constitutes the elements of a crime, it is generally stated in advance the basic difference between the element (part) of the act and the element (part) of guilt (criminal responsibility), the element of this act is often also called the objective element, while the element of error is often also called the element of error. subjective.

⁷ Sudarto, *Capita Selecta Criminal Law*, (Bandung: Alumni, 1981), p.42.

⁸ Sutantya Rahardja Hadikusuma, *Indonesian Cooperative Law*, (Jakarta : Raja Grafindo Persada, 2005), p.31.

The elements of Article 372 of the Criminal Code are as follows:

1. Whoever;
2. Purposely;
3. Against the law;
4. Owning something that wholly or partly belongs to someone else;
5. But what is in his power is not because of evil.

In the case of embezzlement in the weighting contained in Article 374, the weighting is:

a. The defendant was entrusted with keeping the embezzled items because of his employment relationship;

b. The defendant kept the goods because of his position;

c. Because they get paid money. The elements in Article 374 of the Criminal Code are as follows:

1. embezzlement;
2. What people do;
3. The control over the goods is due to a work relationship
4. Or because of the quest or because of getting paid for it.

Term Deposits are deposits in cooperatives whose deposits are made once and withdrawals can only be made within a certain time, according to the agreement between the borrower and the cooperative concerned. The attitude of recognizing time deposits as their own means that the perpetrator, consciously or willingly, unlawfully recognizes time deposits as their own. The criminal provisions for capturing the actions of cooperative management in savings business activities that are detrimental to the depositor by the KSP management in cases of ordinary/general offenses, according to the author, are as follows:

1. Criminal provisions in Book II of the Criminal Code in Chapter XXIV concerning Embezzlement are: Article 372 and Article 374.

2. Criminal provisions in Book II of the Criminal Code in Chapter XXV of Cheating, namely Article 378.

According to Sutantya Rahardja Hadikusuma, for the loss suffered by the cooperative, the management jointly (jointly) or individually (personally) bears the loss, if the loss occurs/arises due to their intentional or negligent actions, it can be concluded that if the loss is not the result of an intentional act or is not the result of the management's negligence, and the management concerned can prove it, then he is free from that responsibility, so that in this case the cooperative itself is responsible in its position as a legal entity. However, if the loss is the result of a deliberate action by the management, besides being responsible for compensating for the loss, then it is possible for the public prosecutor to carry out a criminal prosecution.

According to Munir Fuady, if there is a loss to a certain party due to the ultra vires act, then the directors or parties in the company who are responsible for the ultra vires act are charged with personal responsibility.

According to Adrian Sutedi, if the management carries out management in accordance with actions within the intra vires limits, namely in accordance with their authority in the articles of association, the responsibility of the management to third parties is only to provide compensation or be responsible for paying or fulfilling corporate obligations in the amount of the value of the assets or assets (materials) owned. corporation, if a corporation takes the form of a legal entity but the management takes ultra vires actions, namely deviating from the articles of association of the corporation, the management is jointly and fully responsible for all parties and each individually and to their personal assets.

Conclusion

Criminal liability for future embezzlement by cooperative management is an act that is threatened with Article 374 of the Criminal Code because the cooperative management commits a crime by using the position as a cooperative manager, so that the manager who acts, the manager who is responsible, has the ability to be responsible and there is no excuse for forgiveness. .

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