

Legal Protection Efforts Against Victims of Embezzlement of Car Rental Vehicles in Review of Article 372 Criminal Code

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ABSTRACT

The difficulty in the community to own a private vehicle does not always have a negative impact on society. The high need for transportation facilities coupled with the low ability of the community to buy private vehicles has resulted in the rental business / rental of private vehicles experiencing a significant increase in business lately. One of the rentals that is much needed for the surrounding community is car rental which is a business in the field of transportation services. The service provided is to rent a car for consumers who need a car for the purposes of departure to a place or out of the area such as family visits, recreation, homecoming, and other consumer needs. In addition to car rental services, it also serves transport / taxi services for consumers. However, on the other hand, there are many cases that befall business actors, including many irresponsible consumers or rentals such as not paying rent for unclear reasons, accidents, and theft to embezzlement. The problems that arise are what are the inhibiting factors in law enforcement of criminal acts of embezzlement of car rental vehicles and how law enforcement against embezzlement of car rental vehicles.

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I. INTRODUCTION

Transportation is one of the important elements in the life of modern society in Indonesia. In fact, one of the signs of progress in a society is the smooth transportation system in an area. This makes transportation facilities and infrastructure an important part that cannot be separated for the people of Indonesia as one of the developing countries in this world.

The difficulty in the community to own a private vehicle does not always have a negative impact on society. The high need for transportation coupled with the low ability of people to buy private vehicles has resulted in the private vehicle rental business experiencing a significant increase in business lately.

One of the rentals that is much needed for the surrounding community is a car rental which is a business in the field of transportation services. The service provided is to rent a car for consumers who need a car for the purposes of departure to a place or out of the area such as family visits, recreation, homecoming, and other consumer needs. In addition to car rental services, it also serves transportation / taxi services for consumers. However, on the other hand, there are many cases that befall business actors, including many consumers or irresponsible rentals such as not paying rent for unclear reasons, accidents, and theft to embezzlement.

This embezzlement is a process, method, and act of embezzling that uses goods illegally, it can be described that embezzlement can be said as breaking the trust of others by breaking promises without good

behavior. One example is the embezzlement of a car vehicle. This is indicated by the frequent occurrence of criminal acts of fraud or embezzlement suffered by car rental service owners committed by car rental service users with the mode of not returning, selling or pawning cars rented from car rental companies. This costs victims financially and psychologically. The victim loses his or her valuable vehicle and often has to incur huge expenses to buy a new vehicle or repair the stolen vehicle. Therefore, legal protection for victims of car embezzlement is very important.

For this reason, the act of embezzling a car is a criminal act, because the perpetrator pawned illegally without the permission or consent of the owner, so that such actions can cause significant losses to vehicle owners such as loss of valuable assets and financial losses.

Therefore, legal protection is needed for victims of car embezzlement in order to obtain compensation and justice for the losses suffered, based on Article 372 of the Criminal Code which regulates the criminal act of embezzlement. This article states that a person who, with intent to enrich himself or another person, unlawfully takes property belonging to another person or for which he is responsible, or withholds such property or retains it with intent to enrich himself or another person, shall be punished with a maximum imprisonment of 4 years and 8 months. This article also stipulates that if the embezzled goods are goods that should be received, delivered or accounted for by the perpetrator, the punishment will increase to a maximum imprisonment of 5 years.

In practice, this article is often applied in cases of embezzlement of money, electronic goods, or motor vehicles. Therefore, Article 372 of the Criminal Code is very important to provide legal protection for victims of embezzlement and also as a basis for law enforcement to take action against embezzlers.

II. RESEARCH PROBLEM

Based on the background description above, a problem can be formulated as follows:

- 1) What are the inhibiting factors in law enforcement of the crime of embezzlement of car rental vehicles?
- 2) How is law enforcement against embezzlement of car rental vehicles?

III. RESEARCH

This type of research is normative juridical research. In normative juridical research, legal rules are carried out which are standards of behavior or inappropriate behavior. The research can be conducted (mainly) on primary and secondary legal materials, as long as these materials contain legal rules.

The problem approach in this research uses a normative juridical approach which is carried out to understand the problem by staying in or relying on the field or study of law and is supported by an empirical juridical approach which is carried out to obtain clarity and understanding of research problems based on existing realities.

Data analysis is to describe the data in the form of sentences arranged systematically, clearly and in detail which are then interpreted to obtain a conclusion. The data analysis used in this research is qualitative analysis and conclusions are drawn using the inductive method, which describes things that are specific and then draws general conclusions in accordance with the problems discussed in the study by describing them in the form of explanations and descriptions of sentences that are easy to read and understand to be interpreted and conclusions are drawn to answer the researcher's problems.

IV. RESULT AND DISCUSSION

1. What are the inhibiting factors in law enforcement of the crime of embezzlement of car rental vehicles?

Investigation is a series of investigator actions in terms of and according to the methods regulated in this law to seek and collect evidence with which the evidence makes light of criminal acts that occur in order to find the suspect.² The Law on the Indonesian National Police Number 2 of 2002 on the Indonesian National Police has explained that the duties of the police are to maintain security, public order, enforce the law, and provide protection, protection and services to the community. Investigators who are Indonesian State Police Officers have special authority by law to investigate a case such as a criminal offense.³

The author argues that the obstacles faced by the investigator come from the investigator's own fault because of the violation of the law committed by the investigator himself and the efforts made by the investigator have not been maximized, it can be seen from the number of cases where there are cases that have been revealed and completed and cases that have not been resolved to date. The parties, both law enforcement officials, the community or rental business owners, should work together so that no more criminal acts of embezzlement of rental cars occur and investigators must also carry out their duties properly so that there is

legal protection for car rental service entrepreneurs.

In connection with the existence of discretion, Joseph Goldstein offers a concept in law enforcement, namely total enforcement, which is the scope of criminal law enforcement, as expected and formulated by the substantive law of crimes, which is impossible to realize due to the limited movement of law enforcers due to strict restrictions by criminal procedural law which includes rules or procedures for arrest, search, detention, confiscation, up to the preliminary examination stage, or perhaps also restrictions by law. The material crime itself, which determines that a criminal offense can only be prosecuted based on a complaint.⁴ And full enforcement, in full enforcement law enforcement law enforcers are expected to maximize the law.

This full enforcement, according to Joseph Goldstein, is an unrealistic expectation, there are constraints in its implementation in the form of time limits, personnel, investigative tools, funds and so on.

1. Legal awareness factors are still lacking According to Ewick and Silbey, legal awareness refers to the way in which people understand the law and legal institutions, namely the understanding that gives meaning to people's experiences and actions.
2. The difficulty of finding the perpetrators of the crime of embezzlement of rental cars The existence of suspects who are difficult to find within the appropriate time frame, lack of evidence (witnesses who saw, heard or did not fulfill the evidence of appointment) so that the case was stopped by the police in the investigation process because of this.
3. Conspiracy with irresponsible law enforcement officers.
4. The difficulty in tracking the car's whereabouts is because not all cars are fitted with a Global Positioning System (a system for determining the location on the earth's surface with the help of satellite signal alignment).
5. The lack of operational costs makes it slow for investigators to go out into the field to look for evidence.

Thus, it is impossible for a person to be held accountable in criminal law, if the person concerned does not commit a criminal offense. Only by committing a criminal offense can a person be held accountable.

The inhibiting factors in law enforcement of criminal acts of embezzlement of rental vehicles in the Bandar Lampung area are related to the lack of coordination between law enforcement officials between regions, the lack of coordination between law enforcement and the community. The factor of infrastructure and facilities is the difficulty of tracking the whereabouts of evidence which is generally fled outside the area or has changed ownership to third hands or collectors. While the factor of public awareness and compliance with the law is where the community is difficult to work with the police.

In cultural and community factors, it can be said that the most dominant, namely the values of compromise or kinship are still applied in the settlement of criminal acts of embezzlement of rental cars, where this is not proportional to the losses suffered by victims, and does not provide a deterrent effect on the perpetrators, there are also several problems related to the difficulty of finding evidence of these criminal acts which cause obstruction of the law enforcement process caused by the difficulty of coordination with the community regarding witnesses and the discovery of evidence. The inhibiting factor of criminal law enforcement against embezzlement perpetrators in terms of culture and society, is one of the factors that make it difficult for law enforcement officials to find witnesses and evidence in the process of disclosing facts in the field, which is caused by people who still cover each other and are indifferent to the occurrence of criminal cases in the vicinity of such cultural variations, can lead to certain perceptions of law enforcement, cultural variations are very difficult to homogenize, therefore law enforcement must be adapted to local conditions.

2. How is law enforcement against embezzlement of car rental vehicles

Crime is deviant behavior, whoever the person is still has the possibility to commit a crime because, there are factors within and outside of a person why he committed the crime. These factors are:

1. Internal factors, internal factors are factors found in individuals such as Psychisex and gender, age / age, physical, mental, race and family.
2. External factors, external factors are factors that are outside the individual. This external factor is based on the individual's environment such as: Education, communication, economy, politics, modern social, minority roles) and geography.

For car rental business owners must be careful and protect business property in a smart way, because if not us as owners who look after who else, basically crime will occur if there is an opportunity and the best way is prevention. If a criminal offense has occurred, the investigator is obliged to conduct an investigation in order to carry out one of the duties of the police in accordance with Article 14 of Law No.

2 of 2002 concerning the Indonesian National Police, namely fostering the community to increase community participation, public legal awareness, and obedience of citizens to laws and regulations of the Law.

The parties, both law enforcement officials, the community or rental business owners work together so that no more criminal acts of embezzlement of rental cars occur and the realization of criminal liability. Efforts that can be made by car rental business owners are one of them always carrying out checking procedures for prospective customers who will rent a car. These checks such as:

1. Prospective customers must have their own house or someone who guarantees that they live in the house. Checking can be done by fulfilling all administrative requirements for car rental such as KTP, Family Card, electricity account, proof of payment of Land and Building Tax (PBB), and telephone account. If there is a difference in the names on these documents, it is likely that the house occupied is not the home of the person concerned.
2. Do a house check on the prospective customer. Make sure that he lives at the address listed on the KTP (identity card). This prevents fraud, for example, it turns out that consumers will leave the vacated house using a rental car.
3. Check the whereabouts of prospective customers in their home environment by asking local authorities such as the Head of RT, Head of RW, or neighbors around their house at random. In trying a defendant who commits the crime of embezzlement, it must first be proven whether a person is capable of being held accountable, in other words, there is an element of guilt. Articles 372 to 377 of the Criminal Code are known as embezzlement. The act can be a habitual offense, it can also be a statute according to the repeated commission of the prohibited act.
4. Install a GPS (Global Positioning System) on the vehicle for easy visibility.
5. Rental service companies do not rent out cars complete with STNK (Vehicle Number Sign), so that the car is not easy to misuse. But the STNK is replaced with a STNK replacement letter that has been confirmed to the police or approved by the police.

The law-making stage must still be followed by its concrete implementation in the daily life of society. This is what law enforcement means. "The State of Indonesia is a State of law", in the 1945 Constitution Article 1 paragraph (3) of the third amendment. In the elucidation of the 1945 Constitution regarding the State government system, it is stated that "The Indonesian State is based on law (Rechtsstaat), not based on mere power (Machtsstaat)". The basic principle adopted in the basic law provides an illustration of law being the foundation of community life. Or in other words, what wants to be upheld in this country is the supremacy of law, not the supremacy of power. The effectiveness of law enforcement requires physical strength to enforce the rules of law into reality, based on legitimate authority.⁵

The scope of the term "law enforcement" is very broad, because it includes those who are directly and indirectly involved in the field of law enforcement. In this paper, what is meant by law enforcement will be limited to those who are directly involved in the field of law enforcement which includes not only law enforcement, but also peace maintenance. It may be assumed that these include those in charge of the judiciary, prosecutor's office, police, court, and corrections.⁶

Sociologically, each law enforcer has a position (status) and role (role). Position (social) is a certain position in the social structure, which may be high, moderate or low. The position is actually a container, which contains certain rights and obligations. These rights and obligations are roles. Therefore, someone who has a certain position is usually called a role occupant. A right is actually an authority to do or not do, while an obligation is a burden or duty. A certain role, can be described into elements, as follows: ⁷

1. Ideal role
2. Expected role
3. Self-perceived role
4. Actual role (actual role) Role

The role that is actually performed is sometimes also called role performance or role playing. It is understood that the ideal and supposed role comes from the other party (or parties), while the role that is considered to be actually performed comes from oneself. Of course, in reality, these roles function when a person deals with other parties (called role sectors) or with several parties (role sets).⁸

A law enforcer, as with other citizens, usually has several positions and roles at once. Thus it is not impossible, that between various positions and roles conflicts arise (status conflict and conflict of roles). If in reality there is a gap between the role that should be with the role that is actually carried out or the actual role, then there is a role distance.

The sociological framework will be applied in the analysis of law enforcement, so that the center

of attention will be directed to its role. However, in this case, the scope is only limited to the supposed role and the actual role. The issue of role is considered important, because the discussion of law enforcement is actually more focused on discretion. As stated earlier, discretion involves decision-making that is not strictly bound by law, where personal judgment also plays a role. In law enforcement, discretion is very important, because: ⁹

1. No legislation is so comprehensive that it can regulate all human behavior.
2. There are delays in adapting legislation to developments in society, leading to uncertainty.
3. Lack of money to implement the legislation as intended by the lawmakers.
4. Individual cases that require special handling. Enforcement

Law enforcement is one of the serious problems for the Indonesian nation. Law enforcement as an effort of all national forces, becomes a collective obligation of all components of the nation (and this is also a correction that the law can only be enforced by certain groups), among others:

1. State apparatus that are assigned and directed to it such as police, judges, and prosecutors, who in the legal world are ideally as the three musketers or three law warriors, who have enforcement functions with different characteristics but lead to the creation of a fair, orderly, and beneficial law for all humans. The police are the organizers and implementers of law enforcement in society, judges are fair law breakers while prosecutors are the State prosecution institutions for lawbreakers filed by the police and carry out court decisions that have obtained permanent legal force.
2. Lawyers who have advocacy and mediation functions for the community, either working individually or joining collectively through legal aid institutions, who guide people who are unfamiliar with the law, so that in the judicial process they are still treated as humans who have honor, rights and obligations, so that the judge's decision will refer to truth, justice based on respect for humans over humans;
3. The executives are scattered in various fields of service, from government employees who have various functions and duties to the organizers who have political power (legislature);
4. A society of legal service users who sometimes ironically become a society of justice seekers.

Law enforcement carried out by the police is by receiving complaints, examining witnesses, conducting investigations and reporting to the leadership.

V. CONCLUSION

Transportation is one of the important elements in the life of modern society in Indonesia. In fact, one of the signs of progress in a society is the smooth transportation system in an area. One of the rentals that is much needed for the surrounding community is a car rental which is a business in the field of transportation services. The service provided is to rent a car for consumers who need a car for the purposes of departure to a place or out of the area such as family visits, recreation, homecoming, and other consumer needs. The inhibiting factors in law enforcement of criminal acts of embezzlement of rental vehicles in the Bandar Lampung area are related to the lack of coordination between law enforcement officials between regions, the lack of coordination between law enforcement and the community. The factor of infrastructure and facilities is the difficulty of tracking the whereabouts of evidence which is generally fled outside the area or has changed ownership to third hands or collectors. While the factor of public awareness and compliance with the law is where the community is difficult to work with the police. Law enforcement is one of the serious problems for the Indonesian nation. Law enforcement as an effort of all national forces, becomes a collective obligation of all components of the nation and this is also a correction that the law can only be enforced by the State Apparatus, Lawyers, Executives and the Community of legal service users.

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