
Juridical Review of the Crime of Car Rental Embezzlement in Banyumas Regency

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ABSTRACT

The crime of embezzlement of rental cars that has recently occurred is very troubling to car rental owners. This is a problem where the meaning of a rule of law if crimes committed by the community cannot be followed by the rule of law, such as crimes by embezzlement is one of the types of crimes against human property regulated in Article 372 of the Criminal Code. Therefore, law enforcement against the crime of embezzlement of rental cars must be resolved thoroughly with justice, as well as for the creation of good and fair law enforcement before the law. The research objectives are as follows: 1) To find out how law enforcement related to the crime of embezzlement of rental cars. 2) To find out how the perpetrator's responsibility for the crime of embezzlement of rental cars. This research uses a normative juridical approach, which is used to make clear, systematic and precise descriptions of the facts / characteristics of certain regions and populations which are then analyzed to obtain the desired facts. The research method used: literature study by reading books, studying, quoting, analyzing what is obtained from book literature. The result of this research is the application of Article 372 of the Criminal Code in the criminal act of embezzlement of rental cars where the criminal act committed by the tenant against the rental goods belonging to the rental owner is due to an abuse of trust where the criminal act of embezzlement is regulated in the provisions of Article 372 of the Criminal Code.

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I. INTRODUCTION

The development of transportation vehicles is very necessary in modern times, because transportation is one of the needs of society in professional and daily life. Private cars are more popular because they are able to carry a lot of luggage over long distances than motorcycles. In addition to cars, mass vehicles are still paid attention to and used for travel, some of which are also inexpensive. There are other problems such as inadequate vehicle condition, lack of supervision of managers, security and comfort are not guaranteed, the solution of some people who still can not buy a private vehicle from Auto because the price is relatively expensive and maintenance requires high costs and must be routinely included in the price of heating oil every year. Embezzlement is an illegal act in which a person rents a car from a car rental company and then does not return the car according to the agreed time or does not pay the car rental fee that should be paid. Car rental evasion can occur for a variety of

reasons, such as difficulty in paying the cost of renting a car, malicious intent to steal a car, or difficulty in returning a car for some reason or difficulty in returning a car for some reason. Some rental car evaders also use false identities or false information when renting a car to avoid revealing their real identity.

To prevent evasion of rental cars, car rental companies usually carry out various preventive measures, such as requesting valid identity documents from the tenant, checking the tenant's credit history, and signing a clear and firm car rental agreement. In the event of evasion of the rental car, the car rental company can report the incident to the authorities and take legal action to return the car and demand compensation for the losses incurred.¹

The car rental company does not always benefit from the car rental company incurring a loss when the car it rents is in a road accident or the car is lost due to vandalism by the consumer or the car rental company.²

The term leasing can be equated with "Rental". It is a contract in which one party agrees to allow the other party to use an item for a certain period of time in exchange for a price paid by the other party. Whether we agree leasing or leasing is based on an agreement of exchange of goods/services, without regard to the commercial terms applicable in the organization to achieve the objectives. In practice, a car lease is a written and oral lease agreement between.³

Car theft occurs almost every year in Indonesia. The conditions are diverse, car thefts occur almost every year in Indonesia. Options range from borrowing to stealing a rental car to stealing a rental car. Crime is a classic problem in people's lives that never ends. The development of crime has affected the difference in public opinion about the activities of the police. Law enforcement is part of the legal development that leads to efforts. Car's embezzlement cases occur almost every year in Indonesia. The modes vary, ranging from borrowing, leasing car embezzlement cases, to rental car embezzlement.⁴ Crime is a classic problem in the life of society that has never disappeared. The development of crime raises various public opinions regarding law enforcement policies by law enforcement officials. Law enforcement is part of legal development that leads to efforts to apply or concretize the law in real life to restore or restore real balance in the order of life in society, nation and state.⁵

One of the popular forms of criminal acts to benefit oneself is the crime of embezzlement which is regulated in the second book of Articles 372 to 377 of the Criminal Code. Criminal acts committed by tenants against rental goods owned by rental owners due to abuse of trust are regulated in the provisions of Article 372 of the Criminal Code (Criminal Code) which reads :

"Any person who intentionally and unlawfully claims as his own an article which is in his possession by reason of no crime shall be punished by embezzlement with a maximum imprisonment of four years or a maximum fine of nine hundred rupiahs".⁶

Based on Article 372 of the Criminal Code, juridically, the crime of embezzlement must fulfill several elements, one of which is the objective element of the offense in the form of the perpetrator's intent, the objective element of the offense consist of :

- The element of who
 - a. The element of whoever
 - b. The element of unlawful possession
 - c. The element of an object
 - d. The element of partly or wholly belonging to another person
 - e. The element that the object is in the possession of another person not by reason of a crime.

As in the case that occurred in Banyuwangi Regency, in April there was a case of car embezzlement committed by the perpetrator who pawned a rental car owned by Sukarti (37), a resident of Karangpucung Village, South Purwokerto, Banyuwangi Regency in January 2022. Kasat Reskrim Polresta Banyuwangi Kompol Berry said this case began when the suspect rented a Xenia car with the police number B 1004 ZFN. After the due date it was returned, but the suspect pawned it without the owner's permission. In April 2020, the reported party borrowed the Xenia car with a one-month rental agreement of IDR 3.5 million. For several it was smooth, but in January 2021 the reported party did not pay the rent to the complainant. The when asked about the whereabouts of the vehicles had been pawned to another person for IDR 30 million without the owner's permission.

¹ Endi Pratama, "ANALISIS PENEGAKAN HUKUM TERHADAP TINDAK PIDANA PENGGELAPAN MOBIL RENTAL DI WILAYAH KOTA BANDAR LAMPUNG" (Universitas Lampung, 2022).

² Andi Rahmiah Nanda, "Tinjauan Yuridis Terhadap Tindak Pidana Penggelapan Pinrang," *Universitas Hasanuddin* 15, no. 1 (2016): 165-175, <https://core.ac.uk/download/pdf/196255896.pdf>.

³ Novelya Angelina Situmorang, "PERLINDUNGAN HUKUM BAGI KORBAN DALAM PENGGELAPAN MOBIL RENTAL" (Universitas Medan Area, 2020).

⁴ Hilel Hodawya, "Contoh Kasus Penggelapan Mobil, Lakukan Ini Jika Jadi Korban," last modified 2022, <https://lifepal.co.id/media/kasus-penggelapan-mobil/>.

⁵ Yusidha Wijadmiko, "Upaya Penyidik Dalam Mengungkap Tindak Pidana Penggelapan Mobil Sewaan (Studi Di Kepolisian Resor Blitar)," *Universitas Brawijaya* (2011)

⁶ Moeljatno, *Asas-asas Hukum Pidana*, Bina Aksara, Jakarta: 1993, hlm. 54

From this report, an investigation was carried out, until finally the whereabouts of the perpetrator was known and an arrest was made. "Based on the information, the officers managed to secure the suspect in a house in Tanjung Village, Jatilawang Subdistrict, Banyumas Regency and then brought to the Banyumas Police Station." Currently the suspect and evidence in the form of one unit of Xenia Car no Pol B 1004 ZFN and STNK have been secured at the Banyumas Police Criminal Investigation Unit office. For the suspect actions, the elements of fraud and/or embezzlement as referred to in Article 378 of the Criminal Code in conjunction with Article 372 of the Criminal Code are fulfilled.

II. RESEARCH PROBLEMS

Based on the background that has been described, the problems to be discussed are :

- a) How is law enforcement related to the crime of embezzlement of rental cars?
- b) How is the perpetrator's responsibility for the crime of embezzlement of rental cars?

III. RESEARCH METHODS

The research method used is normative juridical research through a statutory approach. So that the data that will be used by researchers is secondary data consisting of primary legal sources, namely Article 372 of the Criminal Code which regulates embezzlement and secondary legal sources that can help analyze and understand primary legal materials, can be in the form of scientific works of scholars, research results, journals and so on.

Data collection methods to obtain data from this writing include literature, identification and classification of existing legal facts. So that it can be analyzed with a qualitative descriptive method to describe data in successive, orderly, non-overlapping, logical and effective sentences that can facilitate data interpretation and understanding of the results of legal material analysis based on concepts, laws and regulations, theories, doctrines, or the author's own views.

IV. RESULT AND DISCUSSION

1. Law enforcement related to the crime of embezzlement of rental car

Law enforcement is an attempt to rationalize Crime, provide justice and be efficient. In the fight against crime, various means can be used as a response to criminals, in the form of criminal and non-criminal instruments, which can be combined. If criminal means are used to eradicate crime, it means the implementation of criminal political means, so the holding of elections to achieve criminal results in accordance with the circumstances and circumstances at that time and in the future. According to Satjipto Raharjo, law enforcement is an effort to realize the ideas of legal certainty, social benefit and justice into reality.⁷ The process of realizing these three ideas is the essence of law enforcement. Law enforcement can also be interpreted as the implementation of the law by law enforcement officers and everyone who has the interests and appropriate authority respectively according to applicable law.

There are several theories about law enforcement, namely:

- a) theory of preventive action (prevention)
This theory is part of Criminal Policy, which is described in many ways, and more narrowly, criminal policy is described as general principles and ways on which to respond to violations of the law in the form of criminal acts. In a broad sense, it is the total functioning of the police force, including the work of the courts and the police, while in a broad sense, it is the policy taken by all public authorities aimed at affirming the main standards. society and legislation⁸
- b) theory of repressive measures
This theory refers to any action taken by law enforcement after an offense or Crime. Repressive measures themselves aim to restore harmony that is disturbed due to violations by imposing penalties in accordance with the violations committed.
- c) theory of therapeutic effect
Correctional efforts are broadly preventive efforts, namely crime prevention efforts that focus on the perpetrators.

In addition to the theories of law enforcement, there are also factors that affect law enforcement, among others:

- a) legal factors
This factor plays a very important role in law enforcement and legislation in society in relation to the legislation itself, and the absence of enforcement orders and the vagueness of the meaning of legal words can also affect the law.

⁷ Satjipto Raharjo, *Hukum dan Masyarakat*, Bandung: Angkasa 1980, hlm. 15.

⁸ Sudarto dalam Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung, 2002, hlm. 1

- b) law enforcement factors
covering the parties involved directly or indirectly in policing, some of the obstacles generally faced by the police in policing, namely lack of adaptation, lack of aspiration, lack of thinking, materialism and innovation.
- c) factors of facilities and facilities
support for law enforcement, such as B. Skilled and qualified personnel, adequate equipment and sufficient funds so that law enforcement is not doing well. avoid law enforcement that does not run smoothly as it should.
- d) community factors
That is, the environment in which the law is applied or applied to society, which greatly affects the implementation of law enforcement, because law enforcement arises from the legal consciousness of society with the aim of common progress.
- e) cultural factors
as a result of work, creativity and taste based on human will in community life, which is the basis for the realization of customary law. The enactment of written laws (statutory regulations) must reflect the values on which the common law is based in order to facilitate law enforcement.⁹

2. Perpetrator's responsibility for the crime of embezzlement of rental cars

Criminal liability is the obligation to pay the revenge that the offender received from the injured party. The responsibilities that must be fulfilled are not only related to legal issues, but also concern problems that arise in society.¹⁰ Criminal liability leads to criminal prosecution of the offender when he has committed a criminal offense and meets the features established by law, that is, the crime meets the elements required by law¹¹. According to Moeljanto stated as follows :

A crime or "rechtsdeliten" "is an act that, although not specified in the law as a criminal act, has been perceived as onrecht, as an act contrary to the legal system, while a violation or "wetsdeliktern" "is an act whose unlawful nature can only be known after there is a wet that determines so.

Criminal liability is preceded by a criminal complaint, since a person cannot be held criminally liable without committing a criminal offense. It is not fair that a person should be held accountable for an act when he himself did not do it.¹³ Criminal liability means a persistent objective error in the event of a subjective criminal act that qualifies as criminal.¹⁴ The basis of criminal law is the law on which it is based. Legality, while the basic principle of guilt is punishable. That is, the perpetrator committed the crime..

A person is liable for such actions when they are illegal and there is no reason to justify or deny them. It is against the law of nature to punish him for what he has done. From the point of view of responsibility, only those who can bear responsibility can be held accountable for their actions. In order for a criminal to be charged with a crime, a criminal offender must meet the following elements of guilt:

- A. The existence of the ability to be responsible for the maker, meaning that the state of the soul of the criminal must be normal.
- B. There is an inner relationship between the maker and the maker, in the form of deliberate (dolus) or forgetfulness (culpa). These are called error forms.
- C. The absence of a reason that erases the fault or there is no forgiving reason

V. CONCLUSION

Based on the results of research and discussion, the conclusions in this study are as follows:

It can be concluded that the crime of embezzlement of rental cars is an act that harms the rental party and can damage public confidence in the car rental business. Therefore, the act of embezzlement of rental cars must be dealt with firmly and punished in accordance with applicable law. Law enforcement against the crime of embezzlement of rental cars is very important to provide a deterrent effect on the perpetrator and prevent similar actions in the future. The police and the rental car can work together in conducting investigations and prosecutions against perpetrators of rental car embezzlement. However, prevention of the crime of embezzlement of rental cars is also very important. The car rental party can provide clear and firm terms and conditions for car loans, and verify the identity and address of the car tenant before giving the rental car to the tenant. In addition, the installation of GPS tracking devices on borrowed cars can also help in preventing the occurrence of rental car embezzlement. Thus, law enforcement and Prevention are two things that must be done together in overcoming the crime of rental car embezzlement. Law enforcement against perpetrators of rental vehicle embezzlement is in accordance with

⁹ Soerjono Soekanto, Faktor-Faktor yang Mempengaruhi Penegakan Hukum, Fakultas Hukum Universitas Indonesia, Jakarta, 1983, hlm 8.

¹⁰ Mahrus Ali, 2012, *Dasar-Dasar Hukum Pidana*, Sinar Grafika, Jakarta, hlm. 156.

¹¹ Roeslan Saleh, *op. cit.*, hlm 75.

the existing stages, in the formulation stage, the legal process is in accordance with the Criminal Procedure Code, Article 372 of the Criminal Code on embezzlemen

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