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Juridical Review of the Crime of Money Laundering with the Mode of Fried Shares Derived from Corruption Crime (Study of Decision: Number 29/Pid.Sus-Tpk/2020/Pn.Jkt.Pst)

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ABSTRACT

This study discusses the judge's consideration in making a decision on criminal sanctions for perpetrators of money laundering with the mode of fried stocks originating from corruption (Study of Decision: Number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst.). The writing of this research is motivated by the fact that in cases related to corruption, judges' decisions often do not match the expectations of the community, especially in this case the perpetrators of these crimes play quite beautifully using the proceeds of their corruption to look like legitimate. So from this research it is important to ensure that the decisions that have been given are decisions that are in accordance with the proper regulations so that the public can believe that the law in Indonesia is enforced fairly and efficiently by law enforcers. The type of research in writing this article uses normative juridical research, namely research conducted using the library method by emphasizing the applicable laws and regulations that are relevant to the legal issues that are the focus of the research. The results of the research regarding the application of material criminal law with evidence that has been listed in the decision are in accordance with applicable regulations which refer to Article 2 Paragraph (1) Jo Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes Jo. Article 55 paragraph (1) to 1 of the Criminal Code and Article 3 of Law Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering, and Law Number 8 of 1981 on Criminal Procedure and other laws and regulations.

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I. INTRODUCTION

The crime of money laundering in Indonesia has been regulated in the Law of the Republic of Indonesia Number 15 of 2002 concerning the Crime of Money Laundering, which has been amended by Law of the Republic of Indonesia No. 25 of 2003 concerning the Crime of Money Laundering, and replaced by Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Money laundering is the act of

concealing the origin of money obtained from illegal activities.[1] Money laundering is done by disguising the traces or origins of the illicit money, so that it looks like legally obtained money.[2] One way of laundering money that is often used is by investing the money in capital markets, such as stocks. This mode is also often used by perpetrators of corruption crimes to hide the origin of the illicit money they have obtained.[3]

The crime of corruption in Indonesia has been regulated as an extraordinary crime because the impact caused by this is indeed very significant, not only harming the state but also depriving the social and economic rights of the community at large.[4] Along with the times that affect the development of technology, corruption has developed in a more sophisticated way, one of which in this study is that the proceeds from corruption are rotated through investment in the capital market by buying fried stocks and mutual funds to make it appear that the money is from legal or legitimate proceeds. The crime of corruption has been regulated in Indonesia in the Republic of Indonesia Law Number 31 concerning the Eradication of the Crime of Corruption, and has been amended to the Republic of Indonesia Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption..

A juridical review of the criminal act of money laundering with the mode of fried shares originating from corruption is important to enforce the law and eradicate corruption and money laundering as well as to ensure that the judge's decision is in accordance with the appropriate laws and regulations. This needs to be done to ensure that criminals cannot avoid punishment and so that the public can believe that the law can be enforced fairly and effectively.[5] As a state of law, the government and law enforcement officials must be able to guarantee justice for all its people by taking firm action against corruption and money laundering in the mode of fried stocks.

The research method in writing this article uses a normative juridical method or known as a literature approach, namely by studying statutory regulations, studying books and other documents related to this research which aims to examine the application of material punishment in Decision Study Number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst whether it is in accordance with proper legal regulations.

Previous research in this author's article took from the thesis by Fandias which was approved in 2015 from Batam International University with the title "Juridical Review of the Crime of Money Laundering in the Crime of Corruption in Indonesia" which examines how the settlement of corruption crimes is related to the crime of money laundering in Indonesia. Second, taking from the thesis by Agus Muliadi which was approved in 2016 with the title "Juridical Review of the Crime of Money Laundering Derived from Corruption Crime (Case Study No. 48/Pid.Sus/2013/Pn. Mks)" which examines how the judge's consideration in handing down the verdict in the case. The difference between the two previous studies above and the research in this article is that the research in this article will examine how the application of material criminal law in the criminal act of money laundering with the mode of fried stocks originating from corruption crimes in decision number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst.

II. RESEARCH PROBLEMS

How is the application of material criminal law in the criminal act of money laundering with the mode of fried shares originating from corruption in decision number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst?

III. RESEARCH METHODS

This article is prepared using a normative juridical approach method or known as a literature approach, namely by studying laws and regulations, studying books and other relevant documents.[6] The research conducted by this author uses library research techniques, namely using primary, secondary and tertiary legal materials.

The research data sources used are primary legal materials consisting of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering, Law Number 31 of 1999 concerning Eradication of Corruption, Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning Eradication of Corruption, Law Number 8 of 1981 concerning Criminal Procedure, and the Criminal Code. Secondary legal

[1] Hibnu Nugroho dkk, "Penyidikan Tindak Pidana Pencucian Uang Dalam Upaya Penarikan Asset (Criminal Act Of Money Laundering In Order To Withdraw Asset)", *Jurnal Penelitian Hukum De Jure*, Vol. 16 No. 1 (2016), hlm. 2.
[2] Ayumiati, "Tindak Pidana Pencucian Uang (Money Laundering) Dan Strategi Pemberantasan", *Jurnal Hukum Pidana dan Politik Hukum*, Vol. 1 No.2 (2012), hlm. 77.
[3] Muhammad Fatahillah Akbar, "Penuntutan Tindak Pidana Pencucian Uang Hasil Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi", *Jurnal Sriwijaya*, Vol. 1 No.1 (2015), hlm. 81.
[4] Pitriyah dan Rini Apriani, "Penegakan Hukum Pidana Korupsi Di Indonesia*", Jurnal Ilmu Hukum dan Humaniora,* Vol. 9 No.3 (2022), hlm. 1190.

[5] Hisar Sitohang dkk, "Analisis Hukum Terhadap Tindak Pidana Korupsi Dengan Penyalagunaan Jabatan Dalam Bentuk Penyuapan Aktif (Studi Putusan Nomor : 195/Pid.Sus/Tpk/2017/Pn Sby)", *Jurnal Ilmu Hukum*, Vol. 7 No.2 (2017), hlm. 76.
[6] Zulfadli Barus, "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif dan Penelitian Hukum Sosiologis", *Jurnal Dinamika Hukum*, Vo. 13 No.2 (2013), hlm. 307.

materials are books, journals, scholars' views, legal research results, articles, and the internet.[7] Tertiary legal materials are legal dictionaries, language dictionaries, legal encyclopedias, and encyclopedias.

The approach used in this author's research is a statutory approach carried out by examining all laws and regulations or regulations relating to and to the legal issues being addressed.[8] The data analysis technique used by the author in this research is qualitative analysis.[9]

IV. RESULT AND DISCUSSION

1. The application of material criminal law in the criminal act of money laundering with the mode of fried shares originating from corruption crimes in decision number 29/Pid.Sus-TPK/2020/PN.Jkt.Pst.

Money laundering crimes often use assets from corruption crimes. This is in accordance with Article 2 Paragraph (1) Letter a of Law of the Republic of Indonesia Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes which states that the proceeds of criminal acts are assets obtained from criminal acts, one of which is corruption.[10] In this case, the defendant used the funds from his corruption to be circulated in the capital market by buying stocks and mutual funds.

The defendant Benny Tjokrosaputro or other persons, namely, Heru Hidayat, Hendrisman Rahim, Hary Prasetyo and Syahmirwan or a corporation, has been deemed to have harmed the State Finance in the amount of Rp16,807,283,375,000.00 (sixteen trillion eight hundred seven billion two hundred eighty-three million three hundred seventy-five thousand rupiah) and 64 pieces of evidence have been found in his case at PT Asuransi Jiwasraya. PT Asuransi Jiwasraya (Persero) hereinafter referred to as PT AJS is a company owned by the Republic of Indonesia, all of whose shares are owned by the Republic of Indonesia. The purpose and objective of the Company is to conduct business in the field of life insurance, including life insurance with sharia principles as well as optimizing the utilization of the Company's resources to produce high quality and highly competitive services, to obtain / pursue profits in order to increase the value of the Company by applying the principles of Limited Liability Companies.

In the period 2008 to 2018 Hendrisman Rahim served Syahmirwan as Head of the Investment Division for the period 2008 to 2014 and as General Manager of Investment and Finance for the period 2015 to 2018 PT AJS, all three of whom acted as the Investment Committee with Hendrisman Rahim as Chairman, Hary Prasetyo as Vice Chairman and Syahmirwan as Member. From 2008 to 2018 Hendrisman Rahim, Hary Prasetyo and Syahmirwan have used funds from PT AJS products in the form of non-saving plan products, saving plan products, and corporate premiums In the period between 2008 and 2018, Hendrisman Rahim has agreed with Hary Prasetyo and Syahmirwan, so that the management of PT AJS funds is handed over to the defendants Benny Tjokrosaputro and Heru Hidayat through Joko Hartono Tirto to arrange the management of PT AJS funds.

The agreement for the management of PT AJS funds to be handed over to the defendants Benny Tjokrosaputro and Heru Hidayat through Joko Hartono Tirto was carried out through meetings that took place from 2008 to 2015. Around May 2008 at the Head Office of PT AJS, Hary Prasetyo had a meeting with Joko Hartono Tirto as Director of PT Inti Agri Resources who was also an Advisor at PT Maxima Integra Investama owned by Heru Hidayat. Hary Prasetyo has known Joko Hartono Tirto since 2000 when they worked at PT Trimegah Sekuritas Indonesia Tbk. Hary Prasetyo was Vice President of Investment Banking while Joko Hartono Tirto was Head of Information Technology Division. During the meeting Hary Prasetyo agreed with Joko Hartono Tirto to manage the value of PT AJS's share investment portfolio by arranging the purchase and sale of the contents and type and amount of the share portfolio through Joko Hartono Tirto as the controller. Hary Prasetyo was then asked by Joko Hartono Tirto to open a PT AJS account at PT HD Capital Tbk, which is a securities company owned by Heru Hidayat, besides that Joko Hartono Tirto also asked Hary Praseto to buy shares including IIKP and TRAM owned by Heru Hidayat. The results of the meeting were reported by Hary Prasetyo to Hendrisman Rahim who then agreed and opened a PT AJS account at PT HD Capital with KSEI Code: HD001 on behalf of PT AJS. The meeting was also reported by Joko Hartono Tirto and approved by Heru Hidayat.

In August 2008 Hary Prasetyo held a meeting with Joko Hartono Tirto to discuss the establishment of a Fund Management Contract (KPD) between PT AJS and an Investment Manager controlled by Joko Hartono Tirto, which aimed to increase the value of PT AJS's portfolio because it was booked at acquisition price, by means of stock instruments that had been purchased by PT AJS would be transferred to the Investment Manager through a Fund Management Contract (KPD) at a predetermined price that was not based on market prices, so

[7] Joko Supriyanto, "Urgensi Penanggulangan Tindak Pidana Pencucian Uang Pada Kasus Korupsi", *Jurnal Recidive,* Vol. 3 No.4 (2014), hlm. 249.
[8] Soerjono Soekamto dan Sri Madmuji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta: PT Raja Grafindo Persada, 2009, hlm. 13.
[9] Sonya Airini Batubara, Tinjauan Yuridis Tindak Pidana Korupsi Penyalahgunaan Wewenang Dalam Jabatan Di Dinas Pendidikan Nias Selatan (Studi Putusan No. 10/pid.sus.tpk/2017/pn.medan), *Jurnal Hukum Kaidah,* Vol.18 No.2 (2018), hlm. 102.
[10] Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang

that PT AJS could book profits (windows dressing), while this type of KPD investment was contrary to KMK Number 424/KMK.062003. /2003. After that Hary Prasetyo introduced Syahmirwan to Joko Hartono Tirto.

In early 2009 Hendrisman Rahim, together with Hary Prasetyo and Syahmirwan, met with Heru Hidayat and Joko Hartono Tirto to reinforce the agreement to manage PT AJS's stock and mutual fund investment instruments through a gentlemen's agreement.

From 2012 to 2018 the defendants Benny Tjokrosaputro and Heru Hidayat entered into an agreement in the sale and purchase of shares to increase the price of certain shares, including shares of SMRU, IIKP, TRAM, MYRX and LCGP by using people controlled by the defendants Benny Tjokrosaputro and Heru Hidayat, so that the share price increased as if it was in accordance with fair market demand and not as a result of the sale and purchase process arranged by certain parties. To support the arrangement scheme, Joko Hartono Tirto from 2008 to 2018 determined the brokers (securities companies) to be used, namely brokers controlled by the defendants Benny Tjokrosaputro and Heru Hidayat, including 10 brokers (securities companies).

Based on the testimony of the facts revealed at trial and strengthened by the testimony of witnesses, testimony of the defendant, expert opinion, letter evidence and other evidence in the form of information uttered, sent, received, or stored electronically with optical evidence or optical-like devices and documents and evidence, and all of which can be seen as interconnected with one another, the defendant should be found guilty of committing the crime of corruption as well as the crime of money laundering. Therefore the defendant must be punished in accordance with his actions and not more than what is threatened, as the facts revealed during the trial. In addition, the costs incurred in this case should be borne by the defendant, in order to be in accordance with the objectives of punishment, namely the protection of society, reducing the level of crime of the perpetrator. Therefore, the judge must also pay attention that the defendant's actions are indeed an extraordinary crime (extra ordinary crime) so that the defendant must be punished maximally in accordance with the applicable law, because the impact of this criminal act can damage the Indonesian economic system.

From this case the judge considered Article 2 Paragraph (1) Jo Article 18 Article 2 paragraph (1) Jo Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning Eradication of Corruption Jo. Article 55 paragraph (1) to 1 of the Criminal Code and Article 3 of Law Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering, Law Number 8 of 1981 on Criminal Procedure. In his verdict, Benny Tjokrosaputro was proven legally and guilty of committing the crime of corruption together and committing the crime of money laundering, imposing life imprisonment, imposing additional punishment to pay compensation to the State of Rp6,078,500,000,000, - (six trillion seventy-eight billion five hundred million rupiah), remain in detention, stipulate 64 evidence, and charge the defendant to pay case fees of Rp10,000 (ten thousand rupiah).

V. CONCLUSION

Based on the formulation of the problem, the results of the research and discussion, it is concluded that the application of material criminal law in the research of this article is in accordance with Article 2 Paragraph (1) Jo Article 18 Article 2 paragraph (1) Jo Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning Eradication of Corruption Jo. Article 55 paragraph (1) to 1 of the Criminal Code and Article 3 of Law No. 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering, Law No. 8 of 1981 on Criminal Procedure. This is supported by the testimony of the facts revealed in court and strengthened by the testimony of witnesses, testimony of the defendant, expert opinion, letter evidence and other evidence in the form of information that is spoken, sent, received, or stored electronically with optical evidence or optical-like devices and documents and evidence, and all of which can be seen as interconnected with one another.

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