



Criminal Aspect of Criminal Liability in Corporate Crimes in the Case of Selling and Buying Gold in Surabaya City

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Abstract

The findings showed that based on the root cause of this research problem, the findings of the Antam gold fraud case began in 2018 when Budi said buying gold weighing seven tons with a value of Rp 3.5 trillion from Antam through a broker called Eksi Anggraeni. The gold price is considered lower if purchased directly from Antam. The defendant claimed the lower price was a “discount”, however, after Budi paid the nominal amount according to the agreement, the gold he received only weighed 5,935 tonnes or the equivalent of Antam’s official gold price at that time. In the end, until November 2018, Budi didn’t receive the remaining gold which was agreed upon and caused him to lose Rp.573 billion. The modus operandi offered is through money game motives and behavior with the investment model through e-business.

Keywords: *Punishment; Criminal Responsibility; Corporate Crime*

Introduction

Corporations contribute a lot to the development of a country, especially in terms of the economy, for example, state revenue funds in the form of taxes or foreign exchange. But on the other hand, corporations often draw negative effects, for example polluting the environment, depleting natural resources, competing unfairly, manipulating taxes, exploiting laborers, producing goods that can cause harm to it’s users, as well as deceiving customers.(Puspitasari and Devintawati, 2018)

The transformation of information is so fast between people as if there is nothing to hide anymore, full of openness in the field of information so that people can inform others about the latest news without having to buy newspapers, watch news, including a form of corporate crime that causes loss of property by causing material loss.(Centipedia, 2019)

This is what corporate actors do in carrying out their criminal activities through means of using the money game system that isn’t widely known by the Indonesian public, from the risk effect that will be generated behind the promise of profits highlighted by the corporation.(Kristian, 2014) There are many examples of money game victims in 2013 such as *First*, Rahian Jewellery, customer funds of Rp.1.32

trillion of the thousands of owners, against Muhammad Azhari, the owner of Rahian, was detained at the East Java Regional Police since April 16, and the case is still in legal proceedings. *Second*, Golden Traders Indonesia Syariah customer funds of Rp. 1 Trillion, was taken away by the owner of the company, Michael Ong, after the owner fled to form a new management to solve problems with customers. *Third*, Antam's gold fraud case in 2018 when Budi Said bought gold weighing seven tons with a value of IDR 3.5 trillion from Antam through a broker called Eksi Anggraeni.

Gold prices are considered lower if purchased directly from Antam. The defendant claimed the lower price was a "discount", however, after Budi paid the nominal amount according to the agreement, the gold he received was only 5,935 tonnes, which was the official price of Antam's gold at that time. In the end, until November 2018, Budi didn't receive the remaining gold which was agreed upon and caused him to lose Rp.573 billion. In the end, the researcher provides the formulation of problems related to corporate crime and the form of corporate criminal punishment in buying and selling gold in the city of Surabaya.

The researcher uses the originality of Titiek Sri Wahyuni (Titiek Sri Wahyuni, 2012) that until now there hasn't been a single Indonesian court decision that has imposed a crime against a corporation. The way of criminal law reaches legal protection for consumers who are disadvantage by the State Electricity Company by adopting the principle of vicarious liability. Orpa Ganefo Manuain (Manuain, 2005) stated that the formulation of the rules for corporate punishment in the criminal act of corruption, there are weakness in formulating when a corporation committing a criminal act of corruption doesn't explain the meaning of "work relationship" and "other relationship".

Research Method

The type of research is normative legal research (Michael, 2020)

Research Results and Discussion

The Roots of Corporate Crime Problems in Gold Buying and Selling in Surabaya City

What is the real trigger for corporate crime in buying and selling gold in the city of Surabaya? To answer this question is not easy. At that time the public did not know and understand the existence of firm action by the authorities against the perpetrators of the triggers, resulting in corporate crime in buying and selling gold in the city of Surabaya. In 2018, Budi Said bought seven tonnes of gold with a value of IDR 3.5 trillion from Antam through a broker called Eksi Anggraeni.

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Forms of Criminalization and Corporate Criminal Liability in Gold Buying and Selling in the City of Surabaya

Accountability for the basis of error and liability with no errors identified is known as risk responsibility or absolute responsibility. On the other hand, the principle of risk responsibility is that the plaintiff's customer isn't required to return, but the defendant producer immediately gives his responsibility as a business risk. Based on Article 1365 of the Civil Code, an act of violating the law is an

act of giving legal resistance that is carried out by an individual because his mistake has caused harm to other individuals.(Ridwan, 2019)

An individual will have the nature of criminal responsibility if an issue or action carried out by him has the nature of fighting against the law(Margono, 2016), however, an individual can eliminate the nature of the need to take responsibility if an element is found inside which results in the loss of the ability to carry out responsibility an individual.

The definition of a criminal act doesn't depend on the issue of criminal responsibility, a criminal act only refers to whether the act itself enters into legal resistance or is prohibited by law, whether an individual who carries out the criminal act himself is subsequently given a penalty depending on whether the individual who carrying out the criminal act itself has an element of error or doesn't have an element of error.(Delinda, 2017)

Based on the explanation above, if it's related to the case that the form of criminal liability in corporate crimes using electronic transactions with the belie mas selling modus operandi in the City of Surabaya has fulfilled the elements of an illegal act, so that on January 7 2020, Budi filed a lawsuit against Surabaya District Court with the classification of illegal acts registered with number 158 / Pdt.G / 2020 / PN in Surabaya.

Conclusion

Criminalization and criminal liability in a form of corporate crime in the gold sale and purchase case in the city of Surabaya, one should know the truth of the root of the problem and the extent to which the subject matter reaches the stage in court. This is important, because without knowing its roots, the application of the causaliteit theory will not run properly in accordance with the rules of criminal law. At the level of conviction and criminal responsibility in a form of corporate crime in the case of selling believers in the City of Surabaya, there must be certain alternative legal remedies before the court ruling so that non-penal mediation is needed through an alternative dispute resolution approach or through a class action lawsuit with apply a sense of justice and truth.

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