

Legal Analysis Of Criminal Liability For Identity Falsement By A Fiduciary Agent

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Abstrak: This research aims to determine and analyze the qualifications of the criminal act of identity forgery in a fiduciary agreement and to determine the legal considerations of the judge in making a decision in the case of Decision No. 1097 / Pid.sus / 2019 / PN. Mks . This research was conducted with a normative legal research type that uses secondary legal materials or is a study by taking several books, journals or references related to the research. The results of this study indicate that (1) The qualifications of the criminal act of identity forgery in a fiduciary guarantee agreement are the requirements that must be met in order to be categorized as a crime. Forgery is the act of replacing a letter or document carried out by an individual or group of individuals. The act of forgery is a crime characterized by a framework of falsehood or fraud against an object. Fraud is an act carried out intentionally to deceive or manipulate others for personal or group interests. Thus in this case or case No. 1097 / Pid.Sus / 2019 / PN. Mks certainly meets the requirements as a criminal act. (2) Legal analysis of the judge's decision in case No. 1097/ Pid.Sus /2019/PN. Mks Regarding Identity Forgery in Fiduciary Guarantees is that the defendant has fulfilled the elements of Article 263 paragraph (1) of the Criminal Code and the elements of Article 36 of Law No. 42 of 1999 Concerning Fiduciary Guarantees. The recommendation of this study is that as law enforcement officers in determining the qualifications of criminal acts, they must be more careful in finding the elements of their actions, whether the action is a criminal act (criminal law) or a civil act (civil law) so as not to make a mistake in prosecution, and as the owner of the fiduciary object guarantee or in this case companies engaged in the fiduciary sector to be more detailed and careful when agreeing to provide fiduciary objects so that it does not happen again as in the case explained above.

Keywords: *Criminal liability, Identity Forgery, Fiduciary*

A. INTRODUCTION

The crime of identity fraud is a recent phenomenon that frequently occurs and harms the party whose identity is falsified. A person who commits an act that harms others, thereby disrupting balance, peace, and order, can be considered a crime. A crime is defined as behavior that violates legally recognized values and norms. Therefore, a crime can be defined as an act that violates criminal law or applicable laws within society.[1]

Forgery originate from the word false which means " not" genuine, no legitimate, imitation, fake, whereas forgery Still from same source interpreted as a process, method, action fake". Fake signify something goods No original, whereas forgery is the process of making something fake goods. So with thus from the word forgery There is there is perpetrator, there is counterfeit goods and there are objective forgery.[2] Act forgery can classified first of all in group the crime

of “fraud”, however No all actions fraud is forgery. Act forgery classified as group crime fraud , if somebody give description about something condition on something goods (letters) as if original or truth the owned. Because the image This is where other people fall for it and believe it that the situation described on goods / letters the That is Correct or original.[3]

Fiduciary is diversion right ownership something object on base trust with provision that right thing ownership diverted the still in mastery owner objects.[4] Meanwhile guarantee fiduciary can interpreted as right guarantee on object move both tangible or not tangible and tangible No move specifically buildings that are not can burdened right liability, as collateral for repayment of certain debts, which provides preferred position to recipient fiduciary to creditors othe. [5]

One of example case action criminal forgery in agreement guarantee fiduciary is as happened in Makassar in No.1097/ Pid.Sus /2019/PN Mks which was then will reviewed in study This Where defendant use identity fake on submission files as condition in submission credit car to PT. Mandiri Utama Finance. The submitted Resident Identity Card named Jane Erly Caroline Ade, but photo on the Resident Identity Card the replaced become Photo owned by defendant Because defendant know if his name Already disabled in banking.[6] This case has sentenced by the Makassar District Court Judge with state that defendant proven in a way valid and convincing, guilty do action criminal offense of " helping " give information in a way misleading, which if matter the known by one of party No give birth to agreement Guarantee Fiduciary” and dropped criminal to Defendant in the form of criminal prison for 1 (one) year 6 (six) months and a fine Rp. 20,000,000- subsidiary 2 (two) months imprisonment.[7]

B. METHOD

The type of research used is normative legal research, which is a process of discovering legal rules, principles, and doctrines to address the legal issues at hand. This research aims to analyze law from a normative perspective, namely based on existing documents, rules, theories, and principles. This research uses primary legal materials in the form of legislation and secondary legal materials in the form of literature studies and legal journals.[8]

C. Qualification Action Criminal Forgery Identity in Agreement Guarantee Fiduciary

Act of forgery is marked crime with framework falsehood or fraud to something object . This is it seems present illusion truth from perspective external , although contradictory with reality . Without guarantee authenticity document written certain and form communication others , building connection in structured and progressive society become No Possible .[9] With thus forgery cause significant risk to existence public That Alone forgery letter refers to the act of making the entire letter or some of its contents No Correct or contradictory with fact . There is a number of form forgery letter , between other :[10]

- 1) Write letter with part or all over content Which No in accordance or violate facts (*intellectual valschheid*) .

2) Composing a letter as if originate from someone other than writer letter the .

The act of creating letter false like This known as forgery (*materiele Valschheid*). The letter contains incorrect information or No Correct become not quite enough answer sender or writer letter . The act of creating letter false is the process of producing A letter that is not Once There is previously , or the contents all of it or part big No correct . The resulting letter from action This known as letter false . On the other hand , action forgery covers all form action addressed to the letter already there is , like delete , change , or replace one its parts , so that different from content letter the original .[11]

Constitution Administration Population , can anticipate development action criminal population as A action criminal special , with apply more criminal tall compared to criminal general provisions in accordance with the Criminal Code (KUHP).[12] Forgery of KTP is a crime something form crime Arranged Letter Forgery in Chapter XII Book II of the Criminal Code, where in the book the listed that which is included forgery letter just in the form of writings only , [13]including inside it forgery sign arranged hands in Article 263 of the Criminal Code to with Article 276 of the Criminal Code. Action Frequent crimes happen is related with Article 263 of the Criminal Code (making letter false or falsify letter), Article 264 (falsifying deeds authentic) and Article 266 of the Criminal Code (ordering enter information false to in something deed authentic).[7] In decision No. 1097/ Pid.Sus /2019/PN Mksr , where case This about falsification of Resident Identity Cards carried out by Roslina with Apriyanti Gaffar (yag his prosecution done in a way separate). After collect data, it is known that forgery identity arranged in a number of legislation , namely :

- 1) Article 263 of the Criminal Code;
- 2) Article 93 of Law No. 24 of 2013;
- 3) Article 35 of Law No. 42 of 1999.

In Article 263 Paragraph (1) of the Criminal Code, the subject regulated is is “ whoever ”, with action criminal offense " Making letter false or falsify letter , ordering enter information fake that can cause something rights , obligations or liberation debt , or earmarked as proof to something thing ",[14] which when action criminal the done , then threat punishment the penalty is in the form of criminal prison for a maximum of 6 years. In Article 93 of Law No. 24 of 2013 concerning Administration Population , subject regulated law is “ every population ”, with qualification action criminal " with on purpose falsify letter and/ or document to Agency Executor in report incident population and events important ”, and threats the crime is in the form of criminal imprisonment for a maximum of 6 years and/ or a maximum fine of Rp. 50,000,000,-[15]

Furthermore, in Article 35 of Law No. 42 of 1999 concerning Guarantee Fiduciary , subject regulated law is “ every person ”, with qualification action the penalty is 50 is " with on purpose falsify , alter , omit , and with method whatever give information in a way misleading that if

matter the known by one of party , no give birth to agreement guarantee fiduciary ”, with threat the penalty in the form of criminal 1 year in prison up to 5 years and a fine Rp . 10,000,000 to Rp. 100,000,000. Of the three regulation the above , forgery identity in the agreement fiduciary in a way special discussed in Law No. 42 of 1999 concerning Guarantee Regulated fiduciary in Article 35 which is against the elements can detailed as following :

- 1) Each person;
- 2) With on purpose ;
- 3) Forge , change , omit , and with method whatever give information in a way misleading ;
- 4) If things the known by one of party , no give birth to agreement guarantee fiduciary .

D. Analysis Legal Considerations of the Judge in Drop Decision Case No. 1097/ Pid.Sus /2019/PN. Max About Forgery Identity by Giver Fiduciary

In the Decision Makassar District Court No.1097/ Pid.Sus /2019/PN Mks , defendant charged on forgery KTP identity in frame submission credit through agreement guarantee fiduciary . Based on file case , defendant using an ID card with the name "Jane Erly Caroline Ade," but it turns out photo on the ID card has replaced with Photo owned by defendant . This action done with objective For cover identity data defects that have been known by the party banking , so that make it easier defendant in get facility credit .

Judge in decision the consider digital evidence as well document physical that shows existence difference between the original KTP data and the documents submitted by the defendant . Use technology digital forensics is one of the tool proof important , though Still face challenge in integrate proof electronic to in system court . The judge stated that action defendant has fulfil element forgery as arranged in Article 263 of the Criminal Code, where the falsified documents used For cause consequence law in the form of disabled will in agreement .

Furthermore , the judge also referred to Article 35 of the Law Guarantee Fiduciary , which is firm state that everyone who with on purpose falsify or change data in document guarantee fiduciary can charged sanctions criminal . With thus , the decision the confirm that defendant must responsible answer on his actions Because has cause agreement fiduciary become defective , which ultimately cause loss for party creditors .

Decision Makassar District Court sentenced criminal prison for 1 year 6 months and a fine amounting to Rp. 20,000,000, with subsidiary punishment prison for 2 months if fine No fulfilled . Sanctions the expected can give effect deterrent for perpetrator forgery identity , at the same time strengthen position law in uphold fairness in transactions guarantee fiduciary .

E. CONCLUSION

Based on a legal analysis of the case of identity forgery in a fiduciary guarantee agreement as reflected in Decision Number 1097/Pid.Sus/2019/PN.Mks, it can be concluded that the validity

of legal identity is a fundamental element in maintaining the legitimacy of transactions and legal relationships between parties. Identity forgery, as stipulated in Article 263 of the Criminal Code and Article 36 of the Fiduciary Guarantee Law, not only reflects a violation of criminal law norms but also undermines the principle of trust in financing transactions. In this case, the elements of a criminal act such as bad faith (*mens rea*), unlawful act (*actus reus*), and intent to obtain unlawful profit have been fulfilled. Although the legal system has provided an adequate normative framework, implementation in the field still faces obstacles, particularly in digital evidence and weak synergy between agencies. Therefore, comprehensive regulatory reform, improved document verification technology, and strengthened inter-agency coordination and public legal literacy are needed to prevent the recurrence of similar cases in the future and maintain the integrity of the legal system as a whole.

F. REFERENCE

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