

Article Title

**Investigations on Suspect Forgery of Documentary:
A Case Study at the South Sulawesi Regional Police**

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ABSTRACT

This study aims to analyze the effectiveness and obstacles of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. This research combines normative juridical and empirical research methods. The primary data were collected using direct interviews, while the secondary data was collected using literature study techniques. The data obtained in this research were then analyzed qualitatively to describe problems and answer study purposes. The results show that the effectiveness of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police consists of the investigator's role, the document's validity, and the facilities. In contrast, inhibiting factors of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police consist of the factor of witness testimony and the legal culture of the community. Therefore, it is recommended that the Government conduct legal counseling to the public to create legal awareness to obey and comply with the laws and regulations that have been in force for the realization of legal purposes in the future.

Keywords: Documentary Evidence Instruments; Forgery; Investigation; Suspect.

INTRODUCTION

Realizing the high value and benefits of land, many people try to present fake certificates, genuine but fake, or illegal copies of certificates (Putri & Silviana, 2022). In this case, the data contained in the illegal certificate does not match that in the land book (Alimuddin, 2021). On the other hand, the term certificate of the right of ownership to land is not found in all the provisions regulated in Law No. 5 of 1960. However, legal practitioners often interpret documentary instruments of evidence of right as a certificate of the right of ownership to land or a land certificate. The number of such illegal certificates is quite large, causing legal problems and causing great concern to the community (Ayudiatratri & Cahyono, 2022). In this case, the crime of forgery (*valschheid in geschrift*) against land certificates, as based on Article 264 section (1) point 1 of Law of the Republic of Indonesia Number 1 of 1960 on Amendment of the Penal Code, regulates that “*forgery of a document is punishable by imprisonment for a maximum of eight years if it is committed against authentic deeds.*”

Nurjannah and Muin (2016) explained that several factors have led to the rampant occurrence of forgery of land certificates, namely:

1. The owner ignores, does not care, does not manage, and does not utilize his/her land so that other people illegally take it over;
2. Inaccuracy of Officials at the National Land Agency in issuing land certificates; and
3. Urban Village or Village officials do not monitor residents when transferring ownership rights to land, so changes in ownership data are not recorded in Letter C.

One of the presumptions of the crime of forgery of documentary instruments of evidence of rights occurred in Makassar City in 2019. The case was reported by the public and handled directly by the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Therefore, based on Article 6 section (1) point a of Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (hereinafter referred to as Law No. 8 of 1981) regulates that “an Investigator shall be an official of the State Police of the Republic of Indonesia.” Furthermore, Article 7 section (1) point a of Law No. 8 of 1981 regulates that:

“An Investigator as referred to in Article 6 section (1) point a, because of their obligation has the authority to accept a report or complaint from a person about the existence of a criminal act.”

From the investigation results into the case above, which involved National Land Agency Officials, the Investigators stated that the case was terminated based on the Notification Letter on the Progress of Investigation Results (Hakim, 2019). Furthermore, it can be seen that several results of the investigation did not proceed to the trial stage, even though the public expected the perpetrators of the crime of document forgery to receive punishment based on a court decision. On the other hand, it can be assessed that the suspect can prove his/her innocence during the investigation process. In this case, the number of land cases handled by the South Sulawesi Regional Police from 2017 to 2019 can be seen in the table below.

Table 1. Land Cases in the South Sulawesi Regional Police

Year	2017	2018	2019	Total	Solved
Reporting	87	66	55	208	79
Investigation	39	48	42	129	
SP2HP	32	10	10	52	
SP3	11	3	0	14	
P21	5	5	3	13	

Source: Sub Directorate 3 (Land and Building), Directorate of the General Criminal Investigation, South Sulawesi Regional Police (2019)

The South Sulawesi Regional Police in table 1 above refers to land cases in general, including expropriation, forgery, or fraud of land rights. The number of land cases handled by the South Sulawesi Police is included in large number. Although the case of land every year has decreased. In contrast, there was a significant increase in the preliminary investigation and investigation stages.

In addition, investigators must uphold the principle of justice, considering the suspect’s position as a human being attached to human rights (Fitrah et al., 2021). In contrast, the suspect must also account for the forgery of documentary instruments

of evidence of land rights which causes losses to the owner (Rachman et al., 2022). On the other hand, even though the investigation into the suspect forgery of documentary instruments of evidence of land rights is considered very formalistic and rigid, the process still presents procedural justice (Manangin & Rasjak, 2022).

Based on the description above, this study aims to analyze the effectiveness and obstacles of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police.

METHOD

This research combines normative juridical and empirical research methods. Normative juridical research analyzes legal problems by referring to and originating from laws and regulations (Sampara & Husen, 2016). In contrast, empirical is research whose object of study includes the provisions of laws and regulations (*in abstracto*) and their application to legal events (*in concreto*) (Qamar & Rezah, 2020). Furthermore, this type of empirical legal research focuses on legal practice as a social phenomenon in terms of the reciprocal relationships caused by social phenomena, including economic, political, social, psychological, and anthropological aspects (Irwansyah, 2021). This research was carried out in October 2019 at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. The informant in this study consisted of five informants who were selected with a purposive sampling technique. The types and sources of data used in this research are as follows:

1. Primary Data is data obtained directly from informants based on sample determination;
2. Secondary Data is data obtained from searching legal literature, including laws and regulations, references, legal scientific journals, legal encyclopedias, and texts or official publications.

The primary data were collected using direct interviews with five informants. While the secondary data was collected using literature study techniques on primary, secondary, and tertiary legal materials. The data obtained in this research were then analyzed qualitatively to describe problems and answer study purposes.

RESULTS AND DISCUSSION

A. The Effectiveness of Investigations on Suspect Forgery of Documentary Evidence Instruments of Land Rights

There are several indicators in analyzing the effectiveness of law enforcement. Soekanto (2013) argues that what influences law enforcement involves legal, law enforcer, facilities, community, and cultural factors. Meanwhile, Friedman (1984) argues that what influences law enforcement consists of factors of legal substance, legal structure, and legal culture. The same is true in analyzing the effectiveness of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. This case consists of the investigator's role, the document's validity, and the facilities.

1. Optimizing the Role of Investigator

Police actions have their purpose or social meaning, which is not always the same as the legal purpose (Said, 2012). However, the anatomy of the legal purpose will show a social purpose. In this case, the law has a specific purpose, the same as the positive norm in laws and regulations (Taqiyyah & Winanti, 2020). Furthermore, the police apparatus must stand above both to achieve legal and social purposes. Therein lies the Police's dilemma. If the Police are only given the duty to pursue social purposes, there are not any problems for them to face. However, the Police must be held accountable for their actions based on the applicable laws and regulations.

In the context of the success of law enforcement in the crime of forgery of documentary instruments of evidence of right, it is not only determined by the perfect formulation of legal postulates (Hairan & Datau, 2020). However, success also highly depends on the quality and quantity of law enforcers. Therefore, law enforcers must have science and technology capabilities to be more effective in gathering information during investigations. In addition, the law enforcer's knowledge and insight must be qualified in uncovering material offenses and legal events against the suspect forgery. Furthermore, the law enforcer must have high dedication and responsibility in giving demands or punishment according to the offense committed by the suspect forgery.

On the other hand, preliminary investigation is the initial stage in the criminal justice process. In the process, Police investigators apply the accusation principle in which suspects are positioned as subjects and not as objects in the investigation process. In this case, the investigator treats

the suspect in his position as a human being who has dignity and worth. In contrast, in discovering the truth, junior investigators are given the authority to examine suspects by doing things that are not regulated but do not conflict with laws and regulations and do not violate the suspect's human rights. In this case, Article 5 section (1) point a4 of Law No. 8 of 1981, it regulates that:

"The junior Investigator, as referred to in Article 4, because of his obligation, has the authority to take other responsible actions according to law."

From the provisions above, it can be understood that police actions to obtain the truth in investigating suspects in criminal cases can still be carried out even though they are not explained in the laws and regulations. However, in carrying out the investigative process, the Police must continue to carry out the principles of decency, both juridically and normatively. Therefore, the Police, when implementing their duties and functions, must have competence in the field of law. In this case, the Police act on behalf of the state.

The principle of decency binds the free authority possessed by the Police. In this case, discretion or free authority, as based on Article 16 section (2) of Law of the Republic of Indonesia Number 2 of 2002 on the State Police of the Republic of Indonesia (hereinafter referred to as Law No. 2 of 2002), it regulates that the other actions referred to in section (1) point l are preliminary investigation and investigation actions that are carried out if the following requirements are met:

- a. not contrary to the rule of law;
- b. in line with legal obligations that require the action to be taken;
- c. must be appropriate, reasonable, and within the scope of his position;
- d. reasonable consideration based on compelling circumstances; and
- e. respect human rights.

In this case, Amran Deny stated that:¹

"Optimizing the investigation process is the mastery of competence possessed by investigators and other stakeholders in carrying out a series of investigations. In this case, the ability to identify, dactyloscopy, crime scene investigations, autopsies, and interrogation of suspects and witnesses."

¹Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 20, 2019.

Amran Deny further stated that:²

“Especially in investigating suspects, investigators must master effective interrogation techniques to uncover the truth in a criminal case. Attempts are made to ask questions raised by investigators so that they lead to the issuance of statements that corroborate that the suspect has or has not committed a crime.”

From the statement above, it can be understood that one of the competencies that investigators must possess is interrogation techniques to ensure that suspects can convey the correct information. One form of mastery of interrogation techniques is that investigators can master the psychology of suspects during investigations. In this case, Ashar stated that:³

“One of the ways to reveal crimes in the interrogation process is to observe the psychology of the suspect. In this case, observe the harmony between the conditions and the way the suspect conveys information with the consistency of the information.”

Farrington and Hawkins explain that there are three functions and benefits of a psychological approach to law, namely:

1. Used to test the validity of the presumption of legal subjects;
2. Used in law enforcement proceedings; and
3. Used in the legal system itself.

From the first point above, a psychological approach is applied to position the suspect's fundamental rights as a party whose freedom is restricted. Meanwhile, the second point is implemented to ensure that the investigation or interrogation process of the suspect can run as it should. This approach has a considerable role because psychology looks at the background of the behavior and actions of the individuals being examined. Investigators who master, at least know, can easily recognize the character and personality of the suspect. In this case, investigators can determine what techniques are suitable for them to carry out for the success of the investigation process while remaining humane. In this case, Amran Deny stated that:⁴

“In practice, the application of psychology that investigators often use is personality psychology, commonly referred to as typology, namely seeing and observing a person's personality, characteristics, and types.”

²Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 20, 2019.

³Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPDA Ashar, on October 21, 2019.

⁴Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 20, 2019.

2. Validating the Legitimacy of Documents

Investigators are often confronted with conditions or supporting and inhibiting factors when validating documentary instruments of evidence of rights that suspects falsified (Nauli, 2019). For example, investigators conduct chronological research to validate the truth of a document. In this case, investigators analyze the logic of events and relate them to existing regulations. In this case, Ferdy stated that:⁵

“One example of a crime of forgery of documentary instruments of evidence of land rights in Makassar is a letter of recommendation for an investigation that appears to have been issued by the Office of the National Land Agency. In this case, the investigation is the authority of the Police and not the National Land Agency.”

On the other hand, Amran Deny stated that:⁶

“Efforts are needed to increase functional and intentional cooperation in resolving document forgery cases. In this case, investigators must resolve cases perfectly under the law by investigating suspects. Meanwhile, the intended intentional cooperation is related to the duties of the institution issuing the land certificate. In this case, the Police cooperate with the National Land Agency.”

Amran Deny further stated that:⁷

“Investigators first wrote to the local Office of the National Land Agency. This action was taken to request assistance from National Land Agency officers who have expertise in validating the authenticity of documentary instruments of evidence of land rights. With the validation results from National Land Agency officers, investigators obtained one piece of proof, namely the testimony of an expert.”

From the statement above, it can be understood that the testimony of an expert is significant in assessing whether a criminal act of forgery has occurred. In this case, Article 1 point 28 of Law No. 8 of 1981, it explains that:

“The testimony of an expert is information given by a person with specific expertise on matters needed to clarify a criminal case for the purposes of examination.”

⁵Interview Results with the Personel of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripka Ferdy, on October 14, 2019.

⁶Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 22, 2019.

⁷Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 22, 2019.

Article 120 section (2) of Law No. 8 of 1981, it regulates that:

“The expert takes an oath or makes a promise before the investigator that he/she will provide information to the best of his/her knowledge, unless due to his/her dignity, profession, or position which obliges his/her to keep secrets, he/she may refuse to provide the information requested.”

Furthermore, based on Circular of the Attorney General’s Office of the Republic of Indonesia Number SE-003/JA/2/1984 on the Testimony of an Expert Regarding Signature and Writing as Proof, explains that expert examination of signature and writing authentication will be used as proof that a criminal act has occurred. In addition, it has been agreed by the Chief Justice of the Supreme Court, Attorney General, and Head of the State Police of the Republic of Indonesia that for general crimes and specific crimes, the testimony of an authentication expert is provided by the MABAK Criminal Laboratory. In this case, Amran Deny stated that:⁸

“The investigator asked for the testimony of an expert, and for that, the expert made an “investigation report.” For example, Visum et Repertum and Audit Reports are made by experts bound by the oath of office and professional ethics. Expert reports certainly have a position and value as legal means of proof according to laws and regulations. Then the report on the investigation results is attached in the form of minutes of the expert’s investigation.”

Arvandi also stated that:⁹

“Testing the validity or authenticity of a document involving experts is one of the supporting factors in providing a solution for the crime of forgery of documentary instruments of evidence of land rights and the like. In fact, in some of the same cases, investigators often, and it has become a habit in the investigative process to involve experts to support the data that has been previously obtained.”

3. Digital-Based Facilities and Infrastructure

Advances in technology and information also make human needs increase (Suhvana et al., 2021). Therefore, law enforcers must understand the use of technology and information to seek the truth in the cases they handle. The use of specific technology facilities and infrastructure is the backbone of law enforcement against crimes of forgery of documentary instruments of evidence (Ismail & Rifai, 2021). Technology is a pillar of success in finding material truth

⁸Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 21, 2019.

⁹Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

in this case (Nasution, 2020). In practice, using forensic laboratories and the like becomes the dominant supporting factor for law enforcement. In this case, Amran Deny stated that:¹⁰

“Currently, the term digital forensics is known. In its application, this digital-based tool is used to detect falsified identities or documents. The application of digital-based tools continues to be developed so those investigations can be processed more effectively.”

B. Inhibiting Factors of Investigations on Suspect Forgery of Documentary Evidence Instruments of Land Rights

Investigation as a law enforcement process is not only limited to its effectiveness. Investigators also often experience obstacles, specifically in collecting proof and physical evidence in the crime of forgery of documentary instruments of evidence of land rights (Efrianto et al., 2021). In this case, the obstacles in the investigations of suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police include the factor of witness testimony and the legal culture of the community.

1. The Testimony of a Witness

Witness testimony can provide an assessment of an event or a criminal act (Misranto & Akhmad, 2019). In this case, the witness has heard, seen, and experienced the event himself. The testimony of a witness often provides convoluted information that ultimately confuses the investigators, which becomes an obstacle in the investigation process. In this case, Arvandi stated that:¹¹

“In many investigative cases, witnesses often gave answers that were not substantive regarding the examined cases, so the witnesses did not appear to have good intentions.”

Arvandi further stated:¹²

“Investigators often have difficulty presenting witnesses. On the other hand, the investigation was carried out separately behind closed doors. However, the investigation process may also be carried out by confrontation in one forum between several witnesses or between witnesses and suspects. In addition, even though the testimony of a

¹⁰Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 21, 2019.

¹¹Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

¹²Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

witness can strengthen the status of a forged document, the testimony related to the same document is considered as one proof."

In addition to the witnesses presented by the investigator, the suspect may also present witnesses who side with him. In this case, Article 116 section (3) of Law No. 8 of 1981, it regulates that:

"In an examination, a suspect shall be asked whether he wants a witness to be heard who may be favorable to him, and if such be the case, this fact shall be recorded in the minutes."

From the description above, it can be understood that efforts to find harmony between an expert's testimony and a witness's testimony are evidence for achieving legal purposes. However, investigators must analyze that all witness testimony shows good faith. In contrast, if the testimony of an expert shows that a crime of forgery has occurred while the testimony of a witness says otherwise, then the position of the authenticity of documentary instruments of evidence of land rights becomes absurd or obscure. In this case, Arvandi stated that:¹³

"Investigation in obtaining a witness's testimony always precedes an expert's testimony. So, the testimony of an expert is a form of verification of the testimony of a witness. Therefore, a witness's testimony is usually considered false if it conflicts with the testimony of an expert."

2. Community Legal Culture

Legal culture is people's habits in complying with applicable laws and regulations (Purba, 2017). In this case, the legal awareness of every society will form a law-abiding society. Therefore, an excellent legal construction must be under the values of living and considered suitable by the community (Husen et al., 2020). Likewise, with forgery behavior, public awareness is needed to minimize the crime of forgery of documentary instruments of evidence of land rights. In this case, Ferdy stated that:¹⁴

"Many suspects feel sorry or are too late to realize the crime of forgery they have committed. However, regardless of this awareness, investigators must continue implementing the applicable legal procedures because the suspect's remorse should not be a barrier for victims who have experienced material or immaterial losses to get justice. Therefore, the investigation process must also be understood as creating legal awareness for the community."

¹³Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

¹⁴Interview Results with the Personel of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Briпка Ferdy, on October 23, 2019.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion above, it can be concluded that the effectiveness of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police consists of the investigator's role, the document's validity, and the facilities. In this case, one of the investigator's roles is interrogation techniques to ensure that suspects can convey the correct information. One form of mastery of interrogation techniques is that investigators can master the psychology of suspects during investigations. Furthermore, testing the validity or authenticity of a document involving experts is one of the supporting factors in providing a solution for the crime of forgery of documentary instruments of evidence of land rights and the like. In addition, the use of specific technology facilities and infrastructure is the backbone of law enforcement against crimes of forgery of documentary instruments of evidence. In contrast, inhibiting factors of investigations on suspect forgery of documentary evidence instruments of land rights at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police consist of the factor of witness testimony and the legal culture of the community. In this case, the testimony of a witness often provides convoluted information that ultimately confuses the investigators, which becomes an obstacle in the investigation process. In addition, the investigation process must also be understood as creating legal awareness for the community. Based on the description of these conclusions, it is recommended that the Government conduct legal counseling to the public to create legal awareness to obey and comply with the laws and regulations that have been in force for the realization of legal purposes in the future.

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