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Legal Accountability of Rupiah Money Processing Service Provider (PJPUR) In Criminal Actions in the Implementation of Rupiah Money Processing Services Activities

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ABSTRACT
Initially, the processing of Rupiah money was carried out by banks, both government and private banks. Banks perform processing of Rupiah currency in accordance with Bank of Indonesia regulations. However, along with the rapid development of transactions, the rapid increase in the number of customers, as well as innovations in electronic transactions involving non-cash payment system technology in the digital era. All of this cannot be undertaken by bank agencies only, due to limited infrastructure, human resources, and technology owned by banks. Therefore, the bank cooperates with other parties to carry out Rupiah processing activities within the scope of the Unitary State of the Republic of Indonesia, namely with Rupiah Money Processing Service Providers (PJPUR), namely parties who have obtained permission from Bank of Indonesia to carry out Rupiah processing service activities. However, in carrying out these tasks, indeed, there are many obstacles and there are even criminal acts committed by PJPUR employees such as embezzlement of money. So all forms of crime must have criminal liability. This study applies the Normative Legal Research Method using a problem approach, namely the statutory approach, the conceptual approach and the case approach. As well as the form of liability in the event of a criminal act committed by an employee when charging, withdrawing, and/or monitoring the adequacy of Rupiah currency at an automated teller machine (ATM), cash deposit machine (CDM), cash recycling machine (CRM) is a criminal liability and liability. compensation.

KEYWORDS
legal liability, criminal acts, rupiah money processing service provider

Introduction

Banking institutions are the core of every country's financial system. Financial institutions in general and banking institutions in particular have an increasingly important and strategic role in driving the wheels of a country's economy. The important and strategic role of banking institutions is evidence that banking institutions are the main pillar for national economic development.[1]

Development in the economic field is part of national development, one of the efforts to create a just and prosperous society. In order to maintain the continuity of this development, the perpetrators include the government and the community as individuals and legal entities, large amounts of funds are needed. Sadono Sukirno stated that economic progress will cause the role of money to become increasingly important in the economy. The main role of money as a transaction tool facilitates the transaction of various goods, services and assets. If the value of money is stable, then money can also be used as a store of value. Monetary economists emphasized that real balances facilitate the production process, and in this case. money can also be seen as a complementary factor of production.[2]

Initially, the processing of Rupiah money was carried out by banks, both government and private banks. Banks process Rupiah currency in accordance with Bank of Indonesia regulations (hereinafter referred to as BI). However, along with the rapid development of transactions, the rapid increase in the number of customers, as well as innovations in electronic transactions involving non-cash payment system technology in the digital era. All of this cannot be executed by bank institutions alone, due to limited infrastructure, human resources, and technology owned by banks. Therefore, the bank cooperates with other parties to carry out Rupiah processing activities within the Unitary State of the Republic of Indonesia, namely with the Rupiah Money Processing Service Provider (hereinafter abbreviated as PJPUR), namely parties who have obtained permission from Bank of Indonesia to carry out money processing service activities. Rupiah.

In Bank of Indonesia Regulation number 21/10/PBI/2019 concerning Rupiah Currency Processing Service Providers, it is stated that the types of Rupiah processing service activities carried out by PJPUR consist of:

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[1] Putu Eka Trisna Dewi, 2018, Penyelamatan Kredit Bermasalah Sebagai Upaya Mengurangi Tingginya Nonperformance Loan (NPL) Pada Perbankan, *Jurnal Advokasi*, Vol 8 Number 1, Fakultas Hukum Universitas Mahasaraswati Denpasar, p. 1

[2] Akhand Akhtar Hossain, 2010, *Bank Sentral dan Kebijakan Moneter*, PT Rajagrafindo Persada, Jakarta, p.2.

a. distribution of Rupiah currency;

b. keeping Rupiah currency in the treasury;

c. processing of Rupiah currency; and/or

d. filling, withdrawing, and/or monitoring the adequacy of Rupiah at an automated teller machine (ATM), cash deposit machine (CDM), cash recycling machine (CRM), and/or other cash Rupiah transaction machines approved by Bank of Indonesia.

In carrying out this Rupiah money processing service activity, which ranges from distribution to filling in Rupiah cash transaction machines, it is prone to fraud or unwanted actions in its activities. Thus the role of PJPUR is crucial in managing Rupiah money in society, which is very vital considering that it is at the forefront of the distribution of Rupiah money.

Research Methods

This study applied a normative legal research method, namely one in which the study was based on legal materials from the literature. In this study the authors used a problem approach, namely the statutory approach, the conceptual approach and the case approach. The statutory approach is where a rule of law is properly reviewed and the law is also related to existing problems. The conceptual approach is a way that is contained in the science of law and from the development of thought and doctrine of scholars. As for the sources of legal materials used by the author, they will be used, namely sources from research and literature, in the form of primary legal materials, namely legal materials in the form of statutory regulations. Secondary legal material obtained from literature review, reviewing legal books, law journals, newspapers and the internet that are related to the issues being studied. The technique for collecting legal materials used in this study is a documentation technique which is carried out by inventorying and categorizing legal materials in the form of laws and regulations, literature and other legal materials. Furthermore, it is carried out by the recording method, namely by quoting, summarizing, and providing reviews with the topic of discussion. After the primary legal materials and secondary legal materials are finished, then the legal materials are processed and analyzed using the method of processing legal materials in a systematic manner, namely, by using legal arguments based on deductive and inductive legal logic and the presentation is carried out by means of descriptive analysis, namely a method of analyzing material law that is carried out by compiling systematically.

Discussion

In the implementation of charging, withdrawing and/or monitoring the adequacy of rupiah currency at ATMs, ADM or CRM, employees at a PJPUR company should work according to standard of procedures set by the company and not violate applicable laws and regulations. Automated Teller Machines (ATMs) namely, the main tool in attracting users. Customers are basically more interested in one of the banks and or financial companies that have quality and also perfect and profitable facilities. The facilities that will be obtained by users are not only in terms of facilities for banking employees and CS but also need to be considered with a variety of bank products in the development of Automated Teller Machines (ATM) facilities. Automated Teller Machine (ATM) is a device for holding input devices and output devices. Automated Teller Machine (ATM) data devices basically have a network in the form of a host processor. Process center accompanied by an ISP which is the route to various kinds of Automated Teller Machines (ATM) networks and functions as an advantage of a bank for the cardholder of Automated Teller Machines (ATM). The process of operating an Automated Teller Machine (ATM) can be controlled by a financial company or a bank in general, and it is also possible to be controlled by a telephone network provider that is already standing alone. If controlled by a bank, generally it can only support the bank's Automated Teller Machine (ATM), which usually can only line up with the bank that is available to shop owners or places of business. Automated Teller Machines (ATMs) are connected to a bank's communications network. This Automated Teller Machine (ATM) makes it easier for customers to carry out financial activities, without having to visit a bank. Automated Teller Machines are usually found in public places, such as malls, office buildings, super markets and gas stations. [3] ATM accounts have a legal basis, namely:

- Article 3 paragraph (3) of the 1945 Constitution;
- Article 1 paragraph (1) of the Criminal Code;
- Article 1 paragraph (1) of Law Number 10 of 1998;
- Article 1 paragraph (16) of Law Number 10 Years. 1998;
- Article 1 paragraph (17) of Law Number 10 of 1998;
- Article 1 paragraph (18) of Law Number. 10 of 1998;
- Article 1 paragraph (19) of Law Number. 10 of 1998.[4]

Criminal acts can occur in all service providers, whether in charging, taking or monitoring

[3] Komang Saeramessatya Purwadi Sastra, I Nyoman Putu Budiartha dan I Nyoman Gede Sugiartha, 2020, Sanksi Pidana Terhadap Tindak Pidana Pembobolan Rekening Melalui Anjungan Tunai Mandiri (ATM), *Jurnal Analogi Hukum*, Volume 2, Number 2, Universitas Warmadewa, p. 236

[4] *Ibid*, p. 237

the adequacy of rupiah currency. Criminal acts that can occur are embezzlement of ATM, ADM or CRM cash, entering counterfeit money at ATM, ADM or CRM or committing skimming crimes. In their writings, Putu Eka Trisna Dewi and Ni Made Septiwidiantari explained that what is meant by skimming is:

> *Skimming is the activity of illegally duplicating information contained in a magnetic stripe found on a credit or ATM/ debit card with a device known as a skimmer. With a skimmer, the cybercriminals of skimming duplicate the magnetic stripe data on the ATM card into an unused ATM card. This process can be performed manually; such as the perpetrator returning to the ATM to retrieve a pre-prepared data chip and, when using a more sophisticated skimmer, the collected data can be accessed from anywhere wirelessly. Skimmers are not the only tool used by skimming criminals, they also use surveillance cameras to detect the finger movements of ATM card users when entering their ATM card PIN (Personal Identification Number).*[5]

ATM skimming is carried out by collecting data from customers by stealing data on the magnetic stripe of debit cards or credit cards or seeking information from customers about personal information related to customer data. This modus operandi is usually done by placing a skimmer at the insertion mouth of the customer's debit card at an Automatic Teller Machine (ATM) or at Electronic Data Capture (EDC). Usually consumers are not aware when taking money at an ATM machine or after eating and then swipe a debit card or credit card on the EDC, that's when the skimmer collects data on the magnetic card. but hackers who will make transactions with bank accounts must know the password from a debit card or credit card, for this they usually install an invisible camera, otherwise hackers will call us as if we have financial problems and must mention the password from the card we have. ATM skimming crime prevention must be carried out with the Criminal Law Formulation Policy. [6]

A criminal action is also known as a criminal act, according to Moeljatno a criminal act is an act that is prohibited by a prohibition law which is accompanied by threats (sanctions) in the form of certain penalties, for anyone who violates the prohibition. A criminal act can also be interpreted as an act which is prohibited by a rule of law and is punishable by punishment. In addition, according to Roeslan Saleh, a criminal act is an act which according to the rules of criminal law is declared a prohibited act. In the concept of

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[5] Putu Eka Trisna Dewi dan Ni Made Septiwidiantari, Efforts To Overcome Criminal Acts Of Skimming Committed Through Atms In The Perspective Of Law Number 19 Of 2016 Concerning Eit, *Jurnal Notariil*, Vol. 6, No. 2, Nopember 2021, Universitas Warmadewa, p. 106

[6] Erwin Ubwarin, 2015, Kebijakan Formulasi Hukum Pidana Dalam Melanggulagi Kejahatan Skimming ATM, *Jurnal Sasi*, Vol.21 Nomor 2, Universitas Pattimura Ambon, p. 236-237

the Criminal Code, a criminal act is defined as an act of doing or not doing something that is stated by the statutory regulations as an act that is prohibited and punishable by crime.[7] An action or act can only be said to be a crime if it fulfills the elements of a crime. The elements of a crime include several things, namely:[8]

1) The act is in the form of a behavior either active or passive which results in the emergence of a thing or situation that is prohibited by law
2) The behavior and consequences that arise must be unlawful in both a formal and material sense
3) There are certain things or conditions that accompany the occurrence of behavior and legal consequences that are prohibited by law. The form of this third element varies depending on the provisions of the criminal law article contained in the law. For example, in relation to the perpetrator of the criminal act, the place where the criminal act occurred, conditions as an additional condition for sentencing, and aggravating circumstances for sentencing.

Criminal acts consist of two, namely criminal acts and criminal acts of violation. Crime is a product of society that needs to be addressed. There are many crimes that occur around us, where the crime is not only committed once by the same perpetrator, often the perpetrator does it repeatedly.[9] The term crime comes from a term known in Dutch criminal law, namely strafbaar feit which consists of three words, namely straf which is translated as criminal and law, baar which is translated as can or may be, and feit which is translated as acts, events, violations, and deed. The Criminal Code does not provide an explanation of what is meant by strafbaar feit itself, usually a crime is synonymous with delict, which comes from the Latin word delictum. The term staffbaar feit or sometimes referred to as delict is translated into Indonesian with various terms.

A criminal act is an act that is prohibited by law and is punishable by punishment, where the meaning of the act here is in addition to an active act, namely doing something that is actually prohibited by law, and a passive act, namely not doing something that is actually required by law. . In the literature, many definitions and meanings of criminal law have been explained as a field of legal science. The definition of criminal law must be interpreted in accordance with the point of view that becomes the reference. In principle, in

[7] Mahrus Ali, 2011, *Dasar-Dasar Hukum Pidana,* Sinar Grafika, Jakarta, p. 98.
[8] *Ibid,* p. 100.
[9] Anhar, 2014, Tinjauan Yuridis Terhadap Tindak Pidana Penggelapan Dengan Pemberatan Yang Dilakukan Secara Berlanjut (Studi Kasus Putusan Pengadilan Negeri Palu No.12/Pid.B/2009/PN.PL), *Jurnal Ilmu Hukum Legal Opinion*, Volume 2 Number 1, Faculty of Law Universitas Tadulako, p. 1

general there are two notions of criminal law, which are called ius poenale and ius puniedi. Ius poenale is an objective definition of criminal law.

Crime is a basic understanding in Criminal Law. Crime is a juridical understanding. It is different from the term evil act or committing a crime. From a formal juridical point of view, a crime is a form of behavior that violates criminal law. Therefore. all actions that are prohibited by law must be avoided and anyone who violates them will be subject to punishment. So certain prohibitions and obligations that must be obeyed by every member of the state must be included in laws and government regulations, both at the central and regional levels..[10] Strafbaarfeit was formulated by Pompe as "a violation of norms (disorder of law and order) that has been intentionally or unintentionally committed by an actor, where the imposition of punishment on the perpetrator is necessary for the maintenance of legal order.[11]

Based on the theory above, PJPUR employees can be categorized as committing a crime if they fulfill the elements mentioned above, the first is that PJPUR employees passively or actively cause a crime that is prohibited in the Criminal Code or related laws and regulations that regulate criminal sanctions, the second is the actions of PJPUR employees it must be unlawful, whether against formal law or against material law, and finally, the matters or circumstances which accompanied the occurrence of the crime committed by the PJPUR employee. Criminal acts that can be committed by PJPUR employees in the context of implementing rupiah currency processing in the form of filling, withdrawing and/or monitoring the adequacy of rupiah currency at ATMs, ADM or CRM are crimes of embezzlement of ATM, ADM or CRM cash, entering counterfeit money at ATMs, ADM or CRM or commit skimming crimes.

In the Criminal Code (hereinafter referred to as the Criminal Code) the crime of embezzlement is regulated in Articles 372 to 277. Article 372 of the Criminal Code stipulates that what is meant by embezzlement is:

> Any person who intentionally and unlawfully owns property which wholly or partly belongs to another person, but which is not in his power because of a crime, is threatened with embezzlement, by a maximum imprisonment of four years or a maximum fine of nine hundred rupiahs.

Based on the provisions of Article 372, R. Soesilo stated that embezzlement is a crime

[10] P.A.F Lamintang, 1996, *Dasar-dasar Hukum Pidana di Indonesia*, PT Citra Adtyta Bakti, Bandung, p.7.
[11] Pompe P.AF, Lamintang, 2011, *Dasar-Dasar Hukum Pidana Indonesia*, Bandung, P.T. Citra Aditya Bakti, Bandung, p.182.

that is almost the same as theft, but embezzlement at the time the item was owned, was already in his hands, not by way of crime/unlawful. The elements of embezzlement that must be fulfilled are:

1) Whoever (there are perpetrators);

2) Intentionally and against the law;

3) Owning something that is wholly or partly owned by another person;

4) The item is in his power not because of a crime.

With regard to employees who commit embezzlement when carrying out tasks of filling, withdrawing and/or monitoring the adequacy of rupiah currency at ATMs, ADM or CRM if this is done in a work relationship, the action is an action that fulfills the elements of the provisions of Article 374 of the Criminal Code. The Article stipulates that: "Embracement committed by a person whose possession of goods is due to a working relationship or to search for or to receive wages for it, is punishable by a maximum imprisonment of five years".

R. Soesilo is of the opinion that the article can be called embezzlement with weighting, where the weighting is in terms of:[12]

a. the defendant was ordered to keep the embezzled goods because of his work relationship (persoonlijke dienstbetrekking), for instance the relationship between the employer and the domestic helper or the employer and the employee.
b. the defendant kept the goods because of his position (beroep), for example the cleaners stole the clothes that were washed for him, the watchmen, shoes, bicycles, etc.
c. because he received a monetary wage (not in kind), for example a station worker bringing passengers' goods for a monetary wage, he embezzled the goods.

Various kinds of criminal acts that occur in society, one of which is the crime of embezzlement, even today there are many criminal acts of embezzlement with various forms and developments that point to the increasingly high level of intellectuality of increasingly complex criminal acts of embezzlement..[13] The crime of embezzlement is a crime that often occurs and can occur in all fields, even the perpetrators in various levels of society, both from the lower strata to the upper strata of society and is a crime that begins

[12] *Ibid,* p. 259.

[13]Anthony Wijaya, 2014, Pertanggung Jawaban Pidana Adw Dan Mbzm Terhadap Hasil Penggelapan Koperasi Su Ditinjau Dari Pasal 3 Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang, *Calyptra: Jurnal Ilmiah Mahasiswa Universitas Surabaya*, Volume 2 Number 2, Universitas Surabaya, p. 4.

with the existence of a belief in other people, and this trust is lost due to the weakness of an honesty.[14] This states that the crime of embezzlement has problems that are closely related to attitudes, morals, mentality, honesty and human trust as individuals.[15] The crime of embezzlement is similar to the crime of theft, but the two are not the same and have differences. The special feature of this crime of embezzlement when compared to theft lies in the element of the object being in the power of the offender. It is not natural for someone to be called stealing other people's things that are already in their own power.[16]

In criminal law the concept of "responsibility" is a central concept known in the teachings of error. Criminal responsibility is defined as continuing the objective reproach that exists for criminal acts and subjectively those who fulfill the requirements to be punished for these actions.[17] The basis for the punishment of perpetrators of criminal acts is the principle of guilt. Mistakes are a very important thing to convict someone, without mistakes there will never be criminal liability. Mistakes are that the perpetrator of a crime can be avoided because from the point of view of society, he can actually do something else if he doesn't want to do that. A person can be said to have made a mistake, if at the time he committed a crime, from the point of view of society, he could be reproached for it, that is, why would he commit an act that is harmful to society when he is able to know the meaning of the act, and therefore he should even avoid such an act.[18]

There are three main components in wrongdoing, namely being reproachable, seen from the point of view of society and being able to do other things, which can be explained as follows: 1) Reproachable which has two meanings, namely being reproachable means being accountable in criminal law, and being reproachable means being subject to punishment . 2) Viewed from the point of view of society, according to Roeslan soleh, it is an affirmation of normative judgments against mistakes. In the object of human law whether there is or is not a mistake is not determined how in the actual state of the defendant's mind, but depends on the mind whether the assessor is there or not there is an error. In short, what is judged is not the person's inner state, but how the judge assesses his inner state and

[14] Jamhir and Mustika Alhamra, 2019, Tindak Pidana Penggelapan Dalam Hukum Positif Ditinjau Menurut Hukum Islam, *LEGITIMASI: Jurnal Hukum Pidana Dan Politik Hukum*, Volume 8 Number 1, UIN Ar-Raniry Banda Aceh, p. 81.
[15] Hurip Agustina, Dadang Suprijatna, and Aal Lukmanul Hakim, 2016, Analisis Yuridis Tindak Pidana Penggelapan Yang Timbul Dari Hubungan Sewa Menyewa Mobil Dikaitkan Dengan Pasal 372 KUHP, *Jurnal Hukum De'rechtsstaat*, vol. 1 no. 1 Faculty of Law Universitas Djuanda, p. 204.
[16] Riska Yanti, 2013, Pertimbangan Hakim Dalam Memutuskan Perkara Tindak Pidana Penggelapan Secara Berlanjut (Studi Kasus No. 55/Pid.B/2010/PN. Palu), *Jurnal Ilmu Hukum Legal Opinion,* vol.1, no. 5, Faculty of Law Universitas Tadulako, p. 5.
[17] Mahrus Ali, *Op.cit,* p. 156.
[18] Mahrus Ali, *Op.cit,* p. 157.

evaluates the facts. 3) Being able to do something else is open to the maker to avoid the occurrence of a crime, in the real sense the maker can do something else if he doesn't want to commit a crime.

In criminal law, the principle of criminal responsibility can be found in Article 2 of the Criminal Code (hereinafter abbreviated as the Criminal Code), that "criminal provisions in Indonesian legislation apply to anyone who commits a crime in Indonesia". Article 55 paragraph (1) of the Criminal Code states that: Convicted as perpetrators of criminal acts: (1) those who committed, ordered to commit, and participated in the act; (2) those who, by giving or promising something, by abusing power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately encourage other people to commit acts. Criminal acts only refer to being prohibited and punishable by a crime, because the principle of responsibility in criminal law is not to be punished if there is no mistake. Accountability in criminal law is asked for every person who makes a mistake. Criminal law is an ultimum remedium or last resort, which is only carried out when sanctions in other fields of law are inadequate.

Legal liability relates to acts against the law. Actions against the law come from the Dutch language called the term (onrechmatige daad) or in English it is called tort. The word (tort) has developed in such a way that it means a civil wrong that is not a default of contract. The word (tort) comes from the Latin (orquer) or (tortus) in French, just as the word (wrong) comes from the French (wrung) which means mistake or loss (injury). Based on the definition of criminal responsibility mentioned above, in the event that an employee commits a criminal act personally without any orders or assistance from the company providing rupiah currency processing services, then the one who is criminally responsible is the employee himself because it is the employee who fulfills the element of error. This is because in criminal law a person can only be held accountable for a criminal act if that person commits an act as stipulated in Article 55 and Article 56 of the Criminal Code. Articles 55 and 56 of the Criminal Code regulate participation in criminal acts. Participation is when the person involved in the occurrence of the criminal act is not only one person, but more than one person. There are five types of participants in criminal acts who are included in the inclusion, namely as people who commit (plager), or participate in committing (madeplager), or order to commit (doenplager), or recommend to commit criminal acts (uitloker) or help commit criminal acts (madeplichtige).

Bank is a business entity that collects funds from the public in the form of savings, and distributes them to the community in order to improve the standard of living of the

people at large. The main function of the bank is to collect and distribute public funds. As a means of facilitating customers in conducting transactions, the bank provides additional facilities to customers in the form of ATM, CDM, or CRM. ATM, CDM or CRM provide convenience for customers where customers do not need to go to the bank and be bothered with filling out forms or withdrawal and deposit slips in every transaction they make. ATM is an electronic device that allows customers to withdraw money or check their savings accounts without the need to be served by a teller. The existence of ATM, CDM or CRM provision facilities by this bank requires the bank to fill in, withdraw and/or monitor the adequacy of rupiah currency at ATMs, CDM or CRM. So that the process of charging, withdrawing and monitoring adequacy can be carried out in an excellent manner, the bank cooperates with PJPUR.

Bank cooperation with PJPUR in processing rupiah currency can be carried out based on the provisions of Article 42 paragraph (1) of the Regulation of Members of the Board of Governors Number 22/6/Padg/2020 concerning Rupiah Money Processing Service Providers, which stipulates that:

> Apart from working together to make deposits and withdrawals as referred to in Article 29 paragraph (4) as well as processing Rupiah Money as referred to in Article 32 paragraph (4), Banks can cooperate with PJPUR in carrying out the distribution of Rupiah Currency, storing Rupiah Currency in treasury, and filling, withdrawing, and monitoring the adequacy of Rupiah at an automated teller machine (ATM), cash deposit machine (CDM), cash recycling machine (CRM), and/or other cash Rupiah transaction machines approved by Bank of Indonesia.

Cooperation between banks and PJPUR in processing rupiah currency must be made in the form of a Cooperation agreement as required in the provisions of Article 54 paragraph (1) letter k of Regulation of Members of the Board of Governors Number 22/6/Padg/2020. In the implementation of cooperation each party has the rights and obligations of each. PJPUR is responsible for ensuring that the money at the ATM is filled, withdrawing money if the CDM or CRM is full and monitoring the adequacy of money on these machines. In practice, the company will assign employees who have adequate competence and can work according to standard operating procedures in filling out, taking and monitoring the adequacy of rupiah currency. However, in practice there are employees who work not according to standard procedures and commit crimes that harm the banking sector, for example in the case of embezzlement of money at an ATM by employees of PT Swardharma Sarana Informatika (SSI), causing a loss of Rp. 530,550,000.

Reporting from beritabali.com The employee who filled in money from PT Swadharma Sarana Informatika (SSI), which is a vendor of Bank BRI, embezzled hundreds of millions of dollars by breaking into a BRI ATM machine at Ngurah Rai Airport. According to Denpasar Police Chief, Kombes Pol Jansen Avitus Panjaitan, the suspect is Radit robbed money at the ATM machine 5 times. During July to December 2020 until the total loss reaches IDR 530,550,000. His modus operandi was that he deliberately made the ATM machine error. The suspect has worked for PT Swadharma Sarana Informatika (SSI) for 5 years. So that his cover would not be discovered, Radit reported the matter to his superiors at PT SSI. By superiors, Radit was ordered to check and fix it. On this occasion the suspect asked for the key code to the safe where the money was kept. In his action after successfully opening the safe on the ATM machine, he withdrew the cash tape at the lowest position. Next, he opened the paper seal slowly so it wouldn't tear and cut the cable seal with pliers. Then, pry the keyhole of the cash cassette with a screwdriver and rotate it to the right to open the cash cassette. That's when the perpetrator took the money as he wished. In order not to read that there was a problem with the ATM machine at the head office, the suspect, Radit, blocked the cash sensor in the ATM cassette using a mineral water bottle or a pringless can. The goal is to read that the cassette contains a lot of money, even though the suspect has already taken it.[19]

In the event of an incidental incident in the form of fraud as mentioned above based on the provisions of Article 88 paragraph (1) letter e, PJPUR is required to carry out a report to Bank Indonesia which contains at least information regarding the chronology of events and the impact of losses caused by fraud that occurs during filling, taking , and/or monitoring the adequacy of Rupiah from ATM, CDM, and/or CRM. With this reporting, Bank Indonesia will know the amount of loss suffered as a result of the fraud. In this case PJPUR did not default on the cooperation agreement because it had carried out its obligation to fill in ATMs by assigning its employees, but when carrying out their duties PJPUR employees committed acts against the law that harmed the bank.

Wirjono Prodjodikoro interprets the notion of an unlawful act as an act that causes a shock in the balance sheet of society, and this shock does not only exist when legal regulations in a society are violated (directly), but also when the rules of decency, religion and manners in society violated (immediately). The Civil Code (hereinafter referred to as the Civil Code) does not provide an understanding of unlawful acts, but in the formulation of

[19] https://www.beritabali.com/news/read/oknum-pegawai-pengisian-uang-bobol-atm-bandara-ngurah-rai-rp5305-juta

Article 1365 of the Civil Code it can be seen regarding the elements of unlawful acts. The article stipulates that every act that violates the law and causes harm to others requires the person who caused the loss because of his mistake to compensate for the loss. based on the provisions of the article, it can be understood that the elements of an unlawful act consist of:

1. There is an act. An unlawful act begins with an act of the perpetrator. It is generally accepted that the deed here means either doing something (in an active sense) or not doing something (in a passive sense), for example not doing something, even though he has a legal obligation to make it, which obligation arises from the applicable law (because there is also obligations arising from a contract). Therefore, for acts against the law, there is no element of agreement or agreement and there is also no element of causa that is allowed as contained in the contract. intended, either to do something (in the active sense) or not to do something (in the passive sense), for example not doing something, even though he has a legal obligation to make it, which obligation arises from applicable law (because there are also obligations arising from a contract). Therefore, for acts against the law, there is no element of agreement or agreement and there is also no element of causa that is allowed as contained in the contract.
2. The act is against the law. This act must be against the law. The element against the law in the broadest sense, which includes acts that violate applicable laws, violates the rights of other people guaranteed by law, acts that are contrary to the legal obligations of the perpetrator, actions that are contrary to decency and acts that are contrary with decency.
3. 3. There is an error on the part of the perpetrator. In order to be subject to Article 1365 regarding unlawful acts, the perpetrator must contain an element of error in carrying out the act. An action is deemed by law to contain an element of error so that it can be held legally responsible if it fulfills the following elements:
    a) The element of intent.
    b) There is an element of negligence.
    c) There are no justifications or excuses such as coercion, self-defense, insaneness and so on.
4. There is a loss for the victim. The existence of a loss for the victim is also a condition so that a lawsuit based on Article 1365 of the Civil Code can be used. In contrast to losses due to default which only involve material losses. So losses due to unlawful acts in addition to material losses, jurisprudence also recognizes the

concept of material losses, which will also be valued in money. Compensation in the concept of civil law due to an unlawful act can be divided into two approaches, namely general compensation and special compensation.

a) General compensation is compensation that applies to all cases, both for cases of default, contracts, and cases related to engagements including those due to acts against the law.
b) Special compensation, namely compensation issued due to certain engagements, in connection with compensation arising from an unlawful act, in the Civil Code it states the provision of compensation for the following matters: compensation for all unlawful acts (Article 1365), compensation for actions committed by other people (Article 1366 and Article 1367), compensation for animal owners (Article 1368), Compensation for owners of collapsed buildings (Article 1369), compensation for families abandoned by people who were killed (Article 1370), compensation for having injured or disabled limbs (Article 1371), compensation for acts of humiliation (Article 1380).

The crime of embezzlement committed by PJPUR employees when viewed from the broad definition of illegal acts as explained above is an illegal act. Thus if the victim asks for compensation, the perpetrator is obliged to pay compensation for the mistakes he has made. The company's obligation to be responsible for unlawful acts committed by its employees is based on the provisions of Article 1767 which stipulates that "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his responsibility or caused goods under his control.

The provisions in the article above are the application of the principle of superior respondiat which means that superiors are responsible for the actions of subordinates, as long as it is carried out within the scope of work assigned and causes harm to other parties. Such losses can arise due to mistakes or negligence of these subordinates. This principle is also known as the doctrine of vicarious liability, which means indirect responsibility or responsibility for the actions of other people.[20] According to Eli Lederman, the doctrine of vicarious liability is based on the attribution of actions to employers or employers, at two levels, namely:[21]

[20] Agustinus Haryono, 2019, *Tanggung Jawab Hukum Perseroan Terbatas Secara Perdata*, https://icopi.or.id/tanggung-jawab-hukum-perseroan-terbatas-secara-perdata/, accessed on 28 November 2022.

[21] Arif Rusman Sutiana, 2018, Implementasi Asas Strict Liability Terhadap Tindak Pidana

The doctrine of vicarious liability is based on the attribution of the deed to the principal or the employer, in two-stages process. First there is examination of whether the elements of the offense were estabilished in the conduct of the agent or the employee. Once these elements are identified in the perpretar"s conduct, they are copied an ascribed to the principal or the employer as well, based on the legal relationship that exist between them. This relationship, in and itself, is a legal and flawless relationship of agency or employment.

In connection with this vicarious liability, a principle called the "employment principle" has developed. In this principle, the employer (employer) is the main person responsible for the actions of the workers/employees who commit the act within the scope of their duties/work..[22] In vicarious liability there are two important conditions that must be met in order to hold the company responsible for the mistakes of its employees based on this theory, the first is that there must be an employment relationship between the company and the employee. Second, the actions that cause losses committed by the employee must be related to or still within the scope of his work. Referring to the provisions of these articles and doctrines, PJPUR is responsible for bank losses caused by criminal acts committed by employees during the implementation of charging, withdrawing and/or monitoring the adequacy of rupiah currency at CDM CRM ATMs. This is because two important conditions have been fulfilled, namely 1) There is a working relationship between employees and PJPUR, because in terms of obtaining a license as PJPUR one must have human resources with adequate competence. Thus, employees who fill in, collect and/or monitor the adequacy of rupiah at ATMs, ADM and CRM are human resources owned by PJPUR. 2) The crime of embezzlement of ATM cash, inserting counterfeit money into ATMs or CRM, and/or committing skimming crimes is still related to or still within the scope of work of the PJPUR employees, because their job is to fill in, collect and/or monitor the adequacy of money at ATM, ADM and CRM as a form of rupiah currency processing.

Conclusion

Legal responsibility of Rupiah Processing Service Providers (PJPUR) related to criminal acts committed by employees when charging, withdrawing, and/or monitoring Rupiah currency sufficiency at automated teller machines (ATM), cash deposit machines (CDM), cash recycling machines (CRM)) includes liability for compensation and criminal

Pembakaran Lahan Yang Dilakukan Oleh Korporasi Di Indonesia, *Skripsi,* Fakultas Hukum Universitas Islam Indonesia Yogyakarta, p.60.

[22] *Ibid,* p.61.

liability. If the incident of embezzlement of ATM cash is carried out when the perpetrator is an employee who is still in an employment relationship and is working to carry out his obligations, the bank can also hold PJPUR accountable for the losses suffered as a result of the criminal act of embezzlement committed by the employee. Against these unscrupulous employees various actions were taken from compensation, dismissal from work and reported to the authorities to carry out legal proceedings and form of criminal responsibility for the perpetrators.

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