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Acquittal in corruption crime case at the Palangkaraya corruption court

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Abstract

Before a decision is handed down, the judge's considerations must be truly convincing according to the law because if the judge does not have confidence or has doubts in deciding the case, then the judge is obliged to acquit the defendant. However, if the judge makes a mistake in handing down an acquittal or acquitting a guilty person, then the judge will be faced with juridical responsibility for having made a mistake in applying the law. One of the acquittal decisions handed down by the Panel of Judges in a criminal corruption case is the Decision of the Corruption Crime Court at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk.

The type of research used is empirical legal research or field research, namely research carried out on actual or real conditions using primary data in the form of interviews and document studies.

The research results show that the judge's consideration of acquittal decisions in corruption cases based on the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk can be categorized as the correct court decision. The judge's consideration of the acquittal in the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk reflects appropriate principles of justice because it emphasizes the importance of a fair process in determining court decisions.

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Introduction

The court is a judicial institution that is the public's hope for obtaining justice through the activities of judges who have an important role in examining and deciding cases submitted to court. As one of the elements of judicial power that receives, examines and decides cases, judges are required to provide justice to justice seekers.

Basically, a judge's job is to make a decision in every case or conflict presented to him, determining matters such as legal relationships, the legal value of behavior, and the legal position of the parties involved in a case so that they can resolve the dispute or conflict neutrally based on applicable law, the judge must always be independent and free from the influence of any party, especially in making decisions. (Mulyadi, 2010) ^[6].

The judge's decision is the crown and peak of the reflection of the values of justice, ultimate truth, human rights, established, competent and factual control of the law or facts, as well as a reflection of the ethics, mentality and morality of the judge concerned. (Mulyadi, 2010) ^[7].

Judges' decisions that are of high quality and have high philosophical values are a form of judge's professionalism in examining, adjudicating and deciding cases. Decisions that have quality, have philosophical value, are based on complete legal facts and adequate legal arguments so that the results of the decision do not cast doubt on the parties, let alone the wrong application of the law. Such a decision can at least create legal certainty for the parties. (Rifai, 2020) ^[8].

Article 1 number 11 of the Criminal Procedure Code (KUHAP) states that, a court decision is a judge's statement made in an open court session, which can be in the form of punishment or acquittal or release from all legal charges in terms and according to the method regulated in law. -legislate this. Based on the provisions of this article, there are 3 types of court decisions handed down by the judge, consisting of a conviction decision, acquittal decision, and acquittal decision.

Before a decision is handed down, the judge's considerations must be truly convincing according to the law because if the judge does not have confidence or has doubts in deciding the case, then the judge is obliged to acquit the defendant. However, if the judge makes a mistake in handing down an acquittal or acquitting a guilty person, then the judge will be faced with juridical responsibility for having made a mistake in applying the law.

One of the acquittal decisions handed down by the Panel of Judges in a criminal corruption case was the Decision of the Corruption Crime Court at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk with a description of the case namely the Defendant Runai, S.P. as Head of the Infrastructure and Facilities Division of the Agriculture, Food and Fisheries Service of Katingan Regency who also acts as Technical Responsible for Provincial Assistance Task Activities in the Central Kalimantan Province Food Crops, Horticulture and Livestock Service Work Unit for the 2018 Fiscal Year for the Katingan Regency area jointly or acting independently with Witness Ir. Hendri Nuhan as Commitment Making Officer (PPK) for Agricultural Infrastructure and Facilities at the Agriculture, Food and Fisheries Service, Katingan Regency and Witness Adae Enel as Chair of the Beringin Jaya Farmers Group Association (Gapoktan), Tewang Beringin Village, Tewang Sangalang Garing District, Katingan Regency, did not implement or realizing government aid funds for Swamp Land Optimization Activities in accordance with their intended purpose and not being properly accounted for but has enriched Witness Adae Enel with a total of Rp. 781,700,000,- (seven hundred eighty-one million seven hundred thousand rupiah) from the funds that should have been allocated for assistance for Swamp Land Optimization Activities worth IDR 1,000,000,000 (one billion rupiah) sourced from the 2018 APBN of the Central Government of the Republic of Indonesia with a budget of IDR 7,800,000,000 (seven billion eight hundred million rupiah).

Regarding the acquittal decision handed down by the Panel of Judges in the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk, it shows that the judge's consideration plays a very important role in a decision, so it is not impossible an acquittal decision that has been handed down is not in accordance with applicable legal provisions.

Based on the description above, the author is interested in conducting research on the issue of judges' considerations regarding acquittal decisions in corruption cases based on the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk.

2. Research Methodology

This research is a normative legal research, which is conducting research by reviewing and analyzing various laws and regulations related to non-performing loan that can be charged with The Corruption Eradication Law. The material used consists of primary legal materials, secondary legal materials, and tertiary legal materials. The research approach used in analyzing consists of the Statue Approach, Case Approach, and Conceptual Approach.

3. Result of Research and Discussion

The judge's position in deciding a case has freedom which is constitutionally guaranteed by Article 24 and Article 25 of the 1945 Constitution of the Republic of Indonesia.

Judges are required to give wise decisions and take full responsibility for the truth and justice expressed in a court decision to God Almighty, themselves, society, and the nation and state.

A court decision is an official decision that contains a description of the legal assessment of a case presented in a judicial institution after the judge considers the evidence and arguments presented in a trial.

As a law enforcement officer, the judge has broad authority in handing down a court decision. Judges have the authority to examine criminal cases, especially in criminal acts of corruption as stated in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which states that Judges and Constitutional Justices are obliged to explore, follow and understand legal values and a sense of justice that lives in society. Based on the sound of Article 5 paragraph (1), it is intended to regulate that judges' decisions are made in accordance with the law and the sense of justice in society. So, to realize this, the basis for the Judge's authority in carrying out his role as a judge is determined.

Article 153 paragraph (2) of the Criminal Procedure Code (KUHAP) states that a Chief Judge is given the authority to lead examinations in the trial process. As for paragraph (3), it is also stated that for the purposes of the examination process, the Chief Judge has the authority to open the trial and declare it open to the public. Apart from that, during the trial process, the judge has the authority to examine the available evidence and evidence.

Based on this, the position and status of judges is very central in the context of law formation. Therefore, the judge's decision as true law must be able to realize the objectives of the law itself. There are at least 3 (three) legal objectives that must be realized in the judge's decision, namely justice, certainty and expediency.

The stages that must be passed and carried out by the Judge in the decision making process include: (Syamsudin and Salman Luthan, 2018) ^[9].

1. Criminal act analysis stage, namely analyzing acts that are prohibited and punishable by crime as regulated by law (criminal act);
2. Criminal liability analysis stage, namely an analysis of the Defendant's mistakes whether the Defendant's actions can be legally accounted for or not; and
3. The decision-making stage, namely the court verdict which can be in the form of a criminal decision, release from all legal demands, and release from indictment.

In handing down court decisions by the Panel of Judges, there are several decision options available to the Defendant in cases of criminal acts of corruption as stated in the provisions of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Crime Corruption includes: (Yusrizal, 2017).

1. Death penalty

The death penalty can be sentenced to death because any person who unlawfully commits an act of enriching himself or another person or a corporation which can harm the state's finances or the state's economy and is carried out under certain circumstances as stated in Article 2 paragraph (1) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes.

2. Imprisonment

Life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000,- (two hundred million rupiah) and a maximum of Rp. 1,000,000,000,- (one billion rupiah) for every person who unlawfully commits acts of enriching themselves or another person or a corporation which can harm state finances or the state economy (Article 2 paragraph (1)). Meanwhile, life imprisonment or imprisonment for a minimum of 1 (one) year and/or a fine of at least IDR 50,000,000 (fifty million rupiah) and a maximum of IDR 1,000,000,000 (one billion rupiah) for any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or position which could harm the state's finances or the state's economy (Article 3).

3. Additional penalties

Additional penalties can include

1. Confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption were committed, as well as goods that replace these goods.
2. Payment of compensation money in the amount equal to the assets obtained from the criminal act of corruption.
3. Closure of all or part of the company for a maximum period of 1 (one) year.
4. Revocation of all or part of certain rights or elimination of all or part of certain benefits that have been or can be provided by the government to convicts.

If the convict does not pay the replacement money no later than 1 (one) month after the court decision has obtained permanent legal force, then his property can be confiscated by the prosecutor and auctioned to cover the replacement money. Meanwhile, if the convict does not have sufficient assets to pay replacement money, then the convict will be sentenced to imprisonment whose length does not meet the maximum threat of the main sentence in accordance with the provisions of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes and the length of the crime has been determined in the court decision.

The process of making a court decision by the Panel of Judges in a criminal corruption case requires careful research into the evidence relating to corruption as well as a careful assessment of the facts revealed in the trial. This is important to ensure that justice is achieved and criminal acts of corruption can be followed up effectively in accordance with applicable law.

In general, before the judge passes a sentence, the judge will consider mitigating and aggravating factors regarding the defendant's behavior.

The judge's considerations are considerations prepared concisely containing legal facts obtained during the examination of the case in court and as a reference in imposing a crime on the defendant.

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The considerations applied by the Panel of Judges regarding the acquittal in the Corruption Crime Court Decision at the

Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk, namely:

1. The defendant has been charged by the Public Prosecutor with charges of subsidiary as in the primary indictment regulated in Article 2 paragraph (1) Jo. Article 18 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning Eradication of Corruption Crimes Jo. Article 55 paragraph (1) 1st Criminal Code;
2. Based on the facts revealed at trial, both from the statements of witnesses and from documentary evidence and material evidence, as follows:
 - a. There is no fact that the defendant Runai, S.P. is the Official in Charge of Technical Activities for Swamp Land Optimization in Katingan Regency for the 2018 Fiscal Year.
 - b. The appointment of the Beringin Jaya Association of Farmer Groups (Gapoktan) as recipient of assistance for Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year was carried out by Ir. Hendri Nuhan as the Commitment Making Officer (PPK) or Head of the Agriculture, Food and Fisheries Service of Katingan Regency with the Decree of the Commitment Making Officer Number: 42/KPTS-DP3/VII/2018, there is no role for the Defendant Runai, S.P. in this appointment. Even if there is a role for the Defendant, the final decision is in the hands of the Commitment Making Officer (PPK) or Head of Service as the person responsible for the district, based on Decree Number: 01/Satker(08)-SK/PSP-KPA/II/18 dated January 15 2018 there is a chart of the organizational structure of the Provincial Assistance Tasks for the Central Kalimantan Province Food Crops, Horticulture and Livestock Service Working Unit (08) for the 2018 Fiscal Year, as the Budget User Authority (KPA) is the Head of the Central Kalimantan Province TPHP Service, the Commitment Making Officer (PPK) in the district service is the Head of Service, Person in Charge of Activity Programs in the district.
 - c. The defendant Runai, S.P. did not identify and verify potential recipients of assistance for Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year because the Defendant was not part of the technical team appointed by the Commitment Making Officer (PPK).
 - d. Even if there were actions by the defendant Runai, S.P. in the Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year, the entire activity cannot be attributed to the Defendant Runai, S.P., because there is a fact that the Defendant Runai, S.P. does not have the position of Person in Charge of Technical Activities as charged with him, whereas according to the Decree of the Budget User Authority (KPA) the person responsible for the program in the district is the Head of Service or the Commitment Making Officer (PPK) in the district.
 - e. There were no unlawful acts committed by the Defendant Runai, S.P. who must be held accountable to him.
 - f. The defendant Runai, S.P. does not have and does not have a position or position as Technical

Responsible Person for Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year, therefore the Defendant Runai, S.P. does not have the authority, opportunity or facilities available to him, so that this element is not fulfilled, so that the Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year cannot be accounted for by him.

Based on the considerations mentioned above, the Panel of Judges opined and concluded that the element of unlawfully not being fulfilled, and the element of abusing the authority, opportunity or means available to him because his position or position was not fulfilled.

Because the elements of the primary indictment and subsidiary indictment are not fulfilled, the Defendant must not be proven to have committed the crime with which he is charged so that the Defendant must be acquitted of all charges and the Defendant's abilities, position, honor and dignity must also be restored.

According to John Rawls, justice is basically a principle of rational policy that is applied to the overall conception of the welfare of all groups in society. To achieve justice, it is rational for someone to force the fulfillment of their desires in accordance with the principle of utility, because this is done to increase the net benefit from the satisfaction obtained by members of their community. (Admin, 219) [2] From John Rawls' view, it appears that the value of justice cannot be negotiated and must be implemented into society without having to sacrifice the interests of other communities, even if this is necessary to avoid greater injustice. (Mochtar and Eddy, 2021) [5] Therefore, John Rawls explains that there are 2 (two) principles of justice for members of society, including: (Atmadja and Budiarta, 2018) [3].

1. Everyone should have the same rights to a broad system of basic liberties for members of society.
2. Social and economic differences should be regulated in such a way as to provide protection for the weakest (unable) members of society and regarding positions and positions that are open to everyone based on the principle of fairness (fair or decent play).

When linked to the theory of justice according to John Rawls, the judge's consideration of the acquittal in the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk, appears to reflect the appropriate principles of justice because has emphasized the importance of a fair process in determining a court decision by means of the Panel of Judges ensuring that all parties have the same opportunity to present evidence and arguments, as well as providing equal treatment for all parties in the trial without taking sides so that this is in line with the principle of equality in John Rawls's theory of justice.

In handing down a court decision, the judge must take into account several factors for his consideration before making a decision based on the authority he has.

Factors that must be considered by the Panel of Judges include

1. Type of criminal act.
2. Motive and purpose of committing a criminal act.
3. The effects resulting from criminal acts.
4. Other factors that can influence the Judge's decision.

Apart from the factors that have been mentioned, there are also subjective factors and objective factors that influence decision making. Subjective factors include: (Syamsudin and Salman Luthan, 2018) [9].

1. A priori behavioral attitude, namely the attitude of the Judge who from the beginning has assumed that the Defendant being examined and tried is a person who is indeed guilty and must be punished;
2. Emotional behavior, namely the court's decision will be influenced by the judge's temperament. A judge who has an irritable temperament will be different from a judge who is not easily offended. Likewise, the decision of a judge who is easily angry and vengeful will be different from the decision of a judge who is patient;
3. The attitude of arrogance of power, namely another attitude that influences a decision is arrogance of power in which the Judge feels that he is powerful and smart, superior to other people (Prosecutor, Legal Counsel, or Defendant);
4. Morals, namely the morals of a Judge because after all a Judge's personality is covered by behavior that is based on the Judge's personal morals, especially when examining and deciding a case.

Meanwhile, objective factors include: (Syamsudin and Salman Luthan, 2018) [9].

- a. Cultural background, namely culture, religion, and education of a person certainly influences a judge's decision. Even though cultural background is not deterministic, this factor at least influences the judge in making a decision.
- b. Professionalism, namely the intelligence and professionalism of a judge, also influences his decision. The difference in a court decision is often influenced by the professionalism of the judge.

Legal regulations require that judges must not assess other things except factors that have been determined by law. However, the reality shows that the judge's process in deciding cases is often influenced by non-legal factors, such as the judge's personality, the appearance of the defendant, and the victim himself.

Several factors that influence the judge's decision can be classified as: (Syamsudin and Salman Luthan, 2018) [9].

1. The judge's own factor

There are various things within a judge that can influence decision making, including logical thinking ability, personality, gender, age and work experience.

2. Defendant Factors

The defendant can also influence the judge's decision. The influence exerted can be divided into the characteristics of the Defendant and the Defendant's statement. Characteristics of the Defendant, namely the characteristics inherent in the Defendant when undergoing examination, which include gender, age, attractiveness and race.

3. Witness Factor

Witnesses can also influence the judge in deciding cases in court. Witness personal factors that influence the judge's sentence include gender, ethnicity, socio-economic status, appearance and behavior in the courtroom.

4. Public Prosecutor's Factor

The size of the prosecutor's demands influences some judges in determining the sentence. In deciding the sentence, the judge will use the article charged by the prosecutor and the judge's independence.

5. Lawyer Factor

An attractive lawyer can have a big influence on the trial process, because the lawyer can act as a persuasive communicator towards the judge.

6. Community Factors

Community factors that can influence a judge's decision can include public opinion and community culture. Public opinion is usually formed from the content of cases that are being investigated through television, radio, newspapers and so on. Meanwhile, cultural factors usually come from the customs of the surrounding community.

Based on the factors that influence the making of a court decision, if it is related to the judge's consideration of the acquittal of the Corruption Crime Court at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN Plk, it can certainly be seen through the discrepancy between the indictment and the facts the law revealed in the trial, as well as the lack of strong evidence and evidence to support the Public Prosecutor's accusations, so this could be a key factor influencing the judge to give an acquittal because in the current legal system, evidence must be carried out convincingly.

On the other hand, the Panel of Judges also considered that in resolving a case it is not enough to rely solely on thinking power and skills in operationalizing the law, but also based on morals that emerge from their conscience to ensure that the court decision made is based on the principles of justice and applicable legal rules because The panel of judges has integrity and good professionalism.

Thus, the acquittal given by the Panel of Judges in this case was the result of careful consideration of the evidence that had been presented, as well as an assessment carried out based on the principles of morals and justice. This reflects the importance of the Judge's integrity and professionalism in carrying out his duties as a law enforcement officer.

4. Conclusion

The judge's consideration of acquittal decisions in corruption cases based on the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk can be categorized as an appropriate court decision. The defendant was not proven to have a position as Technical Responsible for Swamp Land Optimization Activities in Katingan Regency for the 2018 Fiscal Year as alleged by the Public Prosecutor. The judge's consideration of the acquittal in the Corruption Crime Court Decision at the Palangka Raya District Court Number 20/Pid.Sus-TPK/2021/PN.Plk reflects appropriate principles of justice because it emphasizes the importance of a fair process in determining court decisions.

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