



Confiscation Of Assets For The Crime Corruption Used As Guarantee Mortgage

Tri Yatmoko

Firma Hukum Tri Yatmoko & Patners, Indonesia tri_yatmoko2014@yahoo.com

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Abstract

Asset confiscation is one of the government's efforts to compensate for state losses. The Prosecutor's Office is one institution with the authority to carry out asset confiscation based on court decisions. In carrying out judicial decisions on corruption crimes, the Prosecutor's Office experiences various obstacles in practicing the value of justice, one of which is the seizure of assets attached to mortgages. The assessment of confiscating assets burdened with mortgages uses empirical juridical methods through library research and field research. The problem of this research focused on the practice of confiscating assets resulting from corruption in recovering state finances and how is the mechanism for confiscating assets resulting from corruption with mortgages attached. The study results show that in practice, the seizure of assets resulting from corrupt criminal acts takes a very long time because the time required for a case to obtain a binding court decision can take months, maybe even years. Next, the mechanism for confiscation of assets by prosecutors can confiscate assets resulting from corruption crimes that are pledged in the bank with mortgage rights attached, as long as the court can prove that the assets are indeed the result of corruption crimes and have permanent legal force (Eintracht). Because the criminal law position (public) is higher than civil law (private).



A. Introduction

Corruption is a wrong crime harmful to formal will and the material¹Factor main. In criminal Corruption (Tipikor) is an opportunity used as an instrument by irresponsible people. In general, corr detrimental to the state's losses, but the most significant impact is the lousy economy and people's daily lives.² Corruption Perpetrators must be responsible for all actions. Therefore, law enforcement must take action by pursuing each criminal's assets.³ Things The main thing that must do against the perpetrators of corruption is to return the lost country. Next, the decision judge must conduct recovery of assets to the perpetrator held with the plunder asset defendant.⁴

Assets originating from various criminal acts are generally not directly used by criminals because if they are directly used, it will be easy to track down law enforcers regarding the source of the assets obtained, so usually, the perpetrators of the crime first try to get the assets obtained from the crime. Enter into the financial system⁵

Deprivation asset results act criminal corruption set in Chapter 18 paragraph- the verse is good in the Anti-Corruption Law, explicitly regulating the seizure of assets obtained from criminal acts of corruption, but these provisions only criminal addition, no forbidden tree. Should related Thing, the confiscation of the assets of the perpetrators of corruption can be used as an additional crime, will but become a principal crime. This means that corruption could guarantee every asset in confiscating the defendant's assets, especially if the defendant runs. The provisions contained in Article 28H paragraph (4) of the 1945 Constitution that "Every" citizen has the right to have private property rights, and these property rights may not be taken over arbitrarily by anyone.⁶ Therefore, although the correct defendant is protected by the constitution 1945, will but in its implementation, must take into account the aspects of the loss suffered by the state. State losses must be sought to be returned, so there must be plunder assets against the perpetrators of corruption.

In handling cases, the defendant or convict is not always a party that monopolizes in "get" and enjoys" results corruption. Results act criminal corruption no seldom flow to party other like participant actors or third parties, namely witnesses or other parties who do not Becomes witness like Institution Finance. Even often, defendants obtain and enjoy the results of corruption smaller than those obtained and enjoyed by third parties. Article 18 paragraph (1) letter b of the Anti-Corruption Law, assets proceeds of crime obtained by other parties may not be charged obligation the return to the defendant, however, obligation attached to the parties who receive it. Consequently, treatment (treatment) to restore state finances enjoyed by the parties other than the accused is not the same as those who have been accused.

The country harmed consequence of an act of criminal corruption, not yet, of course, could restore with existence return to plunder treasure owned by the defendant as a substitute for state finances, the value of which is only limited to property obtained by a defendant.⁷ To restore the

¹ Artidjo Alkostar, Kerugian Keuangan Negara dalam Prespektif Tindak Pidana Korupsi, *Varia Peradilan* No. 275 Oktober 2008, hal 34-35.

²Redi Hendar Pakpahan dan Aras Firdaus, "Pembaharuan Kebijakan Hukum Asset Recovery: Antara Ius Constitutum Dan Ius Constituendum," *Legalisasi Indonesia* 16, no. 3 (2019): 269–378. .

³. Aliyih Prakarsa dan Rena Yulia, "Model Pengembalian Aset (Asset Recovery) Sebagai Alternatif Memulihkan Keuangan Negara Dalam Perkara Tindak Pidana Korupsi, *Jurnal Hukum Prioris* Vol. 6 No. 1 Tahun 2017.

⁴Eddy O.S. Hiariej, "Pengembalian Aset Kejahatan", *Jurnal Opinio Juris*, Vol. 13 Mei 2013.

⁵ Ansori, Gatot Subroto. "PERAN PPATK DALAM MENCEGAH DAN MEMBERANTAS TINDAK PIDANA PENCUCIAN UANG." *Unira Law Journal* Vol.1 No.1 (2022):40

⁶ Rezi Rizki Deli, "Implementasi Perampasan Aset Hasil Tindak Pidana Korupsi Menurut Undang-Undang", *Jurnal Lex Administratum*, Vol. IV/No. 4/Apr/2016.

⁷ Ulang Mangun Sosiawan, "Penanganan Pengembalian Aset Negara Hasil Tindak Pidana Korupsi Dan Penerapan Konvensi PBB Anti Korupsi Di Indonesia," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 587, <https://doi.org/10.30641/dejure.2020.v20.587-604>.

loss of finance country entirely, only could conduct if treasure obtained and enjoyed by other parties is taken back by the state. With Thus, the success rate of saving state losses in settlements corruption cases, it is not always the same as all state financial losses that occur⁸ Prosecutor general doing his authority in skeleton recovering state losses through the confiscation of assets, is regulated in Article 18 paragraph (1) letters a and b of the Corruption Law and Article 38 paragraph (5) of the Anti-Corruption Law, the judge on base demands prosecutor could decide for did plunder to goods previously confiscated.

Chapter 19 Constitution Corruption allows a judge to drop a decision plunder resulting in corruption that belongs to the defendant. According to Chapter 19, paragraph (1) Corruption Act, a third party gets treasure, goods, or profit, which results in corruption with method faith no good so could rob the country.⁹ In practice, attorneys experience constraints to do plunder to asset results from the corruption pledged in the bank installed with APHT. Provisions of Article 14 of the Law on Rights Dependent states that the Mortgage Certificate has power Executive the same one by a court decision which has final power law and applies instead of the Grosse Acte Hypotheek. Irah-irah, which be included on the certificate Right Dependent mean confirm strength executive on SHT, if debtor default, an asset which collateral can be executed without going through a court trial, with how to and use the separate executive institution following the rule of law program civil.¹⁰

Cases against assets resulting from the corruption confiscated by the court related to criminal acts criminal corruption are Decision PN Manado Register Case Number 18/Pid-Sus-TPK/2014/PN. Mdo, with Defendant Mr. Subchan SE, dated 10 July 2014, in his decision, he was sentenced to 5 (five) years in prison and a plot of land and buildings having the address at the Green Housing Complex Sure No. 13, Jalan Ahmad Yani KM-10, 200 Banjar Masin according to SHM Number: 01347/Sungai Lakum registered An. Mohammad Hasan Rahmat robbed the country for auction, and money results from auction goods are taken into account with money payment replacement.

Amar's decision is until with level cassation is granting the Contestants' Resistance (PT. Bank Panin Tbk) with the Register. PT. Bank Panin, Tbk Banjarmasin branch, as holder of Certificate of Rights Dependent (the creditor), submit an objection to the decision and has filed a civil lawsuit to the Attorney General of the Republic of Indonesia. North Sulawesi Attorney General's Office cq. Prosecutor Bitung, as Challenged I, and Mohammad Hasan Grace, as Challenged II.¹¹

Based on the problem outlined above, the writer's subsequent interest lifts the theme of this conducted study with the title "Criminal Law Enforcement Against Confiscation of Proceeds of Assets Criminal act Corruption which guaranteed in Bank Installed As Right Dependent." The novelty of this research is about confiscating assets resulting from criminal acts of corruption that are guaranteed as mortgages to restore state finances. The formula problem is how to practice plundering assets results in corruption in recovering state finances and what the confiscation mechanism of assets results in corruption installed suitable dependents?. This study uses empirical normative legal research methods based on primary

⁸ Khairus Febryan Fitrahady, Ahmad Zuhairi, and M Riadhussyah, "REcovery Aset Daerah Yang Dijadikan Agunan Oleh Pihak Ketika Dalam Perjanjian Kerjasama Dengan BUMD," *Arena Hukum* 13, no. 3 (2020): 550–67.

⁹ Supardi. *Perampasan Harta Hasil Korupsi Prespektif Hukum Pidana Yang berkeadilan*. Jakarta: Prenadamedia Group. 2018. hlm. 5-7.

¹⁰ Mariam Darus Badruzaman, "Permasalahan Hukum Hak Jaminan dalam Hukum Bisnis", *Jurnal Lex Privatum*, Volume 11, 2000.

¹¹ Putusan.Mahkamahagung.go.id.pada tanggal 28 Maret 2021, Pukul 08.00 WIB.

and tertiary data to answer this problem.¹²

B. Discussion

1. The Practice of Confiscation of Assets Proceeds from Corruption in Recovering Losses Country

In the legal system in Indonesia, the seizure of assets is part of the criminal addition in the form of plunder goods specific results act criminal.¹³ This generally applies to every criminal act that occurs in the realm of law criminal in Indonesia with harmful destination convict which proven through decision court which tie has To do act so that they cannot enjoy the proceeds of the crime.¹⁴ Asset confiscation proceeds of crime in the legal system in Indonesia are not new. Several criminal provisions have regulated the possibility of for To do foreclosure and plunder results and tools used in a crime. These provisions are contained in the Book of the Criminal Code (KUHP) on additional penalties. In addition to being set in The Criminal Code, provisions regarding the confiscation of assets resulting from criminal acts are also regulated in each provision law criminal which spread in Constitution, which expressly set it up.

In the criminal law provisions in Indonesia, the confiscation of certain particular goods can only be done with a court decision with binding legal force. Thus, during the enforcement process for a criminal act, other actions can be taken, namely confiscation. Foreclosure is an effort force conducted by a Canaan investigator to take over. It saves an object (asset) for interest proof in the law enforcement process, the stages of the investigation, prosecution, and the judge.¹⁵ Thing the character is temporary and can only be conducted with permission from the chairperson court country local; however, in the state, urgency can be confiscated first, and then confiscation, which has to be reported to the chairman court country local To use get an agreement.

In practice, apparatus enforcer law makes it very difficult to confiscate assets resulting from criminal acts of corruption that the perpetrators have controlled. The difficulties encountered in efforts to confiscate assets resulting from criminal acts are complicated many, such as the lack of instruments in efforts to confiscate assets resulting from acts of criminal law and the lack of understanding of the mechanism for confiscation of proceeds of criminal acts by law enforcement officers, as well as the length of time required until the assets resulting from criminal acts, can be confiscated by the state in this case given authority to the Prosecutor as the Public Prosecutor in the casewith based on sentence permanent legal force.¹⁶

According to the provisions of Article 18, paragraph 2 of the Criminal Procedure Code reads that in the event of being caught red-handed, the arrest is carried out without a warrant, provided that the arrest must immediately hand over the caught along with the available evidence to the nearest investigator or assistant investigator. The Criminal Procedure Code also limits the objects that can be confiscated, namely only objects that can be confiscated which has a direct

¹² M. Mulyadi, "Riset Desain Dalam Metedeologi Penelitian", *Jurnal Studi Komunikasi dan Media*, Vol. 16 Tahun 2012.

¹³ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana Perkembangan Penyusunan Konsep KUHP Baru*, Jakarta: Kencana, 2010, hal. 23.

¹⁴ Edi Nasution, "Pemulihan Aset (Asset Recovery) Dengan Menyita Aset Ilegal", http://www.ppatk.go.id/files/Pemulihanaset_Assetrecovery_Dengan_Menyit_Aset_Ilegal_Paper_Edinst_10_JUNI_2013.pdf

¹⁵ Marfuatul Latifah, Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia, *Negara Hukum*: Vol. 6, No. 1, Juni 2015, hlm. 19.

¹⁶ Theodore S. Greenberg, Linda M. Samuel, Wingate Grand, and Larissa Gray, *Stolen Asset Recovery, A Good Practices Guide for Non-Conviction Based Asset Forfeiture*, Washington D.C.: The World Bank & UNODC, 2009, hal. 18.

connection with criminal acts; objects that are not directly related to the occurrence of a criminal event cannot be confiscated by investigators.¹⁷ Object confiscation could be returned to the most entitled person when investigation and prosecution do not require the confiscated object. Apart from that, confiscated items could be returned when an incident that occurs is not so sued because declared insufficient evidence and declared not a crime. Other conditions where the confiscated goods can be returned is when there is a waiver cases case in the public interest or the case is closed by law, except if the object obtained from something actis criminal or which used to do an action criminal.

Rule law related to tracking assets, management assets, and delivery of assets up to the utilization and supervision of assets that have been submitted. Efforts to expropriate assets in a country certainly require a desire for a political country's good goods from parliament, government, and judicial institutions. Desire political from parliament related to the desire parliament to prepare legal instruments to confiscate assets from the beginning to the end that originate from criminal acts can be returned to the appropriate party. Besides that, a law must also be prepared related to reciprocal relations between countries. This political will can realize through Constitution, which arranges special about under yield assets act criminal in the legal system in Indonesia.

The act of confiscation of assets in the legal system in Indonesia is contained in Chapter 10 (b) KUHP as the wrong form of criminal addition. The confiscation is carried out in a limited manner by the provisions stipulated in the law in the KUHP, that is, goods owned by a convict who obtained from crime or intentionally, goods owned by a convict who obtained from crime or intentionally used to do the crime. Based on these provisions, the confiscation is carried out based on a decision court or a determination from the judge to goods certain. Deprivation could be replaced with criminal confinement. If the confiscated goods are returned to the convict, the confinement length is at least one day and at most six months old.

When the judge has decided the case in question, the object subject to confiscation is returned to the person or party mentioned in the decision unless, according to the judge's decision, the object is confiscated for the country, suitable for destruction, or for tampered with until no could reuse, or auctioned for the benefit of the state treasury and can also be used used for interest proof in case other. Using this mechanism, the confiscation of assets resulting from criminal acts does not require a maximum because the object that could be confiscated and robbed is directly related to a crime.¹⁸ It becomes an obstacle for law enforcement officers who confiscate or confiscate because sorting out which items are directly related or not directly related to the crime takes time. At the same time, the nature of foreclosure and seizure of assets requires speed so that assets don't move the hand.

With the use mechanism in KUHP, the practice confiscation of assets resulting from criminal acts takes a very long time, which powerful tie can use up time months, maybe even years. The length of time needed make it easy defendant to hide asset obtained and used in criminal acts so that the initial purpose of confiscation of assets, namely seizing the proceeds of crime so that the perpetrator cannot enjoy the wealth that is not their right is not achieved because the perpetrator already made efforts to dispose of the asset. Deprivation mechanism assets, as stated in the Criminal Procedure Code as described above, drip weight on disclosure act criminal, which in inside there are elements of finding the perpetrator and placing the

¹⁷ Djuniarti, "Proses Hukum Kejahatan Yang Tertangkap Tangan Menurut Kitab Undang-Undang Hukum Acara Pidana" *Jurnal Saraq Opat* 4 No.2 (2022):99, <https://doi.org/10.55542/saraqopat.v4i2.252>

¹⁸ Ariawan Agustiariono, Pemisahan Kewenangan dalam Pengelolaan dan Pertanggungjawaban Keuangan Negara dalam Perspektif Tindak Pidana Korupsi. Disampaikan pada Seminar Hukum Keuangan Negara dengan tema "Pemisahan Kewenangan Dalam Perspektif Hukum Keuangan Negara dan Penyelesaian Tindak Pidana Korupsi", Manokwari, 28 Januari 2016.

perpetrator in prison and only placing asset confiscation as an additional crime is not effective enough to reduce crime rates.¹⁹

With no make plunder asset as focus from enforcement law for criminal acts that have an economic element, there will be the omission to perpetrator act criminal for dominate and enjoy results act criminal even to do repetition on act criminal who once did even with mode Operandi which more advanced. Existence of a subsidiary mechanism (replacement) for the obligation to pay assets resulting from actions criminal law also causes efforts to confiscate assets resulting from criminal acts not effective enough. There is a mechanism subsidiary which long no exceed threat punishment criminal the main thing is in exchange for the number of assets that must be paid to the state. Because part big convict will choose to state his incompetence to return asset assets generated from the crime he has committed so that his inability will be rewarded with corporal confinement as a substitute. Of course becoming an up-and-coming alternative for convicts, compared to must-return assets generated from action criminals.

2. Mechanism Deprivation Asset Results Corruption Installed Right Dependent

Crime corruption is linked with system law, so by a substance, the government already has policies or regulations that can make an instrument for eradicating corruption.²⁰ Will work, but because corruption still has many perpetrators, The Corruption Law is detrimental to the state and must be enforced by law. Furthermore, law enforcers are judges, prosecutors, police, and lawyers in the legal structure. One of those structures is the Prosecutor's Office, which has a strategic role in law enforcement against corruption, so to recover state losses, assets are confiscated from corruption. By culture law in enforcement law corruption against the confiscation of assets that every criminal who has harmed the country, then return and asset confiscation will be complex, when the perpetrator runs self even perpetrator already replace name every asset which it has.²⁰ It will work, but because corruption still has many perpetrators, The Corruption Law is detrimental to the state and must be enforced by law.

Furthermore, law enforcers are judges, prosecutors, police, and lawyers in the legal structure. One of those structures is the Prosecutor's Office, which has a strategic role in law enforcement against corruption, so to recover state losses, assets are confiscated from corruption. By culture law in enforcement law corruption against the confiscation of assets that every criminal who has harmed the country, then return and asset confiscation will be complex, when the perpetrator runs self even perpetrator already replace name every asset which it has.²¹ In many cases, an asset owned by the perpetrator's corruption mortgage is attached, meaning that the other party has indirectly controlled the asset.²²

Chapter 18, paragraph (2) law Corruption is known that there is the sentence "treasure the object can be confiscated and auctioned off, according to the author of property which meant in the chapter the is an asset owned by Defendant which of course nois income from criminal acts of corruption or is not an asset which used for doing act criminal corruption, because if based on the judge proven that treasure object which robbed is property resulting from a criminal act of corruption, the provisions apply Article 18 paragraph (1) letter aan of the

¹⁹ Ermansyah Djaja, *Memberantas Korupsi Bersama KPK*, Sinar Grafika, Cetakan Pertama, Jakarta, 2010. Hal. 28

²⁰ Dewi Kania Sugihartib & Muhammad Ilham Satrianaac Eri Satrianaa, "System, Asset Recovery of Detrimental to The Finances of The State From Proceeds of Corruption in The Development of National Criminal Law," *Jurnal Dinamika Hukum* 19, no. 2 (2015): 350–69, <https://doi.org/10.20884/1.jdh.2019.19.2>.

²¹ Erna Dewi, "Peranan Hakim dalam Penegakan Hukum di Indonesia", *Jurnal Hukum*, Fakultas Hukum Universitas Lampung, PRANATA HUKUM Volume 5. 2010.

²² Firdaus Arifin, "Problematisa Hukum Pengembalian Aset Tindak Pidana Korupsi Pelaku dan Ahli Warisnya", *Pagaruyuang Law Journal*, Volume 3 No. 1, Juli 2019.

Corruption Law so that the Prosecutor does not have to confiscation and auction as regulated in Article 18 paragraph (2) of the Anti-Corruption Law. Based on Article 18 paragraph (3) of the Anti-Corruption Law, it is determined "if the convict does not have treasure object which sufficient for pay money replacement as referred to in paragraph (1) letter b, shall be punished with criminal imprisonment whose length does not exceed the maximum threat of the principal sentence in accordance under the condition in court decisions."²³

Return loss country with use instrument law civil law through filing a civil lawsuit that Prosecutor can carry out as Lawyer Country on happening loss finance country against the perpetrator or his heirs. This is by the provisions of Article 32 paragraph (1) of the Anti-Corruption Law; if there is not enough evidence while there is already a loss the country suffered, the Prosecutor can file a civil lawsuit. Article 38 The Corruption Eradication Law stipulates that if, after the court's decision has obtained permanent legal force, it is known that there is property belonging to the convict which is suspected or reasonably suspected to have come from an act criminal corruption which not yet worn plunder for the country as referred to in Article 38 b paragraph (2), the state can carry out lawsuit civil against convict or expert his inheritance.²⁴

According to Farid,²⁵ confiscated assets/goods from the proceeds of corruption that were used as Bank collateral installed as a Mortgage can be implemented as long as The court can prove that the asset is the natural result of corruption. Based on the results of interviews with Dr. Eddy Rifai, SH, MH,²⁶ a Criminal Lecturer at the Faculty of Law, the University of Lampung states: It is possible to confiscate assets resulting from acts of criminal corruption guaranteed in the bank and installed as Right Dependents because the position of criminal law (public) is higher than on civil law (private) so if there is a court decision that permanent legal force (*inkrat*) against the confiscation of assets resulting from a criminal act corruption which guaranteed in the bank and installed as Right Dependent position criminal law takes precedence than civil law.

The asset return theory is based on the basic principle of "give the state what is due." The correct country contains obligation which Becomes the right individual inhabitant Country, so the principle is equivalent to the principle of "give the people what be entitled." In essence, fair means placing something in place and giving to whoever just what which be his right.²⁷

Thus, the mechanism for confiscating assets resulting from corruption needs to be installed right not quite enough; an attorney could execute along there is validity asset could be proven as a result of corruption and strengthened with memo court. Therefore, confiscating these assets also needs mapping assets owned by corrupt defendants because most assets owned have changed someone else's name. Thus, tracing assets owned by the defendant must have more prudence so that all assets can be confiscated and returned to the state.

Based on the results Interview with Bi Pujo Prayitno, SH, MH,²⁸ Lecturer Civil Faculty

²³Rustam Rustam, "PELAKSANAAN PENGEMBALIAN KERUGIAN KEUANGAN NEGARA (ASSET RECOVERY) DALAM TINDAK PIDANA KORUPSI (Studi Kasus Kejaksaan Tinggi Sumatera Barat)," *Jurnal Dimensi* 6, no. 2 (2017): 206–25, <https://doi.org/10.33373/dms.v6i2.1047>.

²⁴ Hinawan Ahmed Sanusi, "Mekanisme Pengambalian Hasil Tindak Pidana Korupsi", *Juris Data*, Vol.12 No. 2 Tahun 201

²⁵ Wawancara dengan Farid selaku kasi Uheksi Pada Kejaksaan Tinggi Lampung, 14 Desember 2021, Jam 14.00 Wib.

²⁶ Wawancara dengan Dr. Eddy Rifai, S.H., M.H. selaku Dosen Pidana Pada Fakultas Hukum Universitas Lampung, 13 April 2021, Jam 10.00 Wib.

²⁷ Ade Mahmud, "Problematisasi Asset Recovery dalam pengembalian kerugian keuangan negara akibat tindak pidana korupsi", *Jurnal Yudisial*, Vol. 11 No. 3 Desember 2018.

²⁸ Wawancara dengan Dwi Pujo Prayitno, S.H., M.H. selaku Dosen Perdata Pada Fakultas Hukum Universitas Lampung, 13 Desember 2021, Jam 18.00 Wib.

Law University Lampung, which state The Prosecutor's Office may confiscate goods resulting from corruption installed as Right dependents; in to do take, The Prosecutor's office may only carry out confiscation of equality/confiscation of adjustments to object guarantee right dependents the. It means that attorney no is the creditor's *preference* in paying off debtors' receivables so that the rights privileges to take precedence in paying off the debtor's receivables dependents are in the hands of creditors holding mortgage rights as creditors *preferences*. Suppose the bank, as creditor preference, has gotten a settlement of the receivables. In that case, if there is still a remainder from the settlement of receivables, the Prosecutor's office is given the right to take a replacement loss finance country.

According to Kurniawan Manullang, SH, as Legal Officer at PT Bank National Nobu, Tbk. Cab. Lampung (LLM)²⁹ stated that the Bank/ Institution Finance as holder Right Dependent could do legal remedies against forfeited collateral because it is proven to be a proceeds asset of corruption. This is based on many legal sources in Indonesia, including Law no. 4 of 1996 concerning Mortgage Rights, Law no. 31 of 1999 as amended by Law no. 20 of 2001 About Eradication Corruption and Decision MA No. 1731/K/Pdt./2011 that on. The point is, in this guarantee, which mortgage holder is the matter? At this time, Banks/Financial Institutions remain the priority/priority creditors to obtain appropriate compensation/payment of debt. Bank/ Institution Finance also gets protection law for resolving problems. By preventive, Bank/Institution Finance could submit an object to foreclosure. By Repressive, Bank/Institution Finance can file a civil suit (through litigation) against treasure and other assets belonging to the debtor.

Responding to Thing the that in enforcement law to plunder asset conducted by enforcer law held with preventive and repressive measures.³⁰ So that the seizure of assets carried out is not limited to plunder but is done to return all state losses whose consequences are not only felt by the state will but society by general affected. Thus, it should have been used as evidence that the Prosecutor's office is already carrying out its duties through straightforward procedure and by provision legislation.

Based on the description above, the Prosecutor, as the executor of the decision, can do plunder to asset results act criminal corruption which pledged in the bank installed as a mortgage, as long as the court can prove that the asset is the result of a crime of corruption and already has permanent legal force (*Eintracht*), due to the position law criminal (public) taller from on law civil (private). Interest Country Countries for confiscating goods suspected of resulting in crime must take precedence over private or civil interests. However, suppose the mortgage holder objected to the decision within the slow 2 (two) months after the decision. In that case, they could submit a petition for objection to the court that decided the case. If the objection application is rejected, the Bank/Financial Institution, the holder of Mortgage rights, can take legal action by filing a civil lawsuit against other assets belonging to the debtor³¹.

The novelty of this research is about the confiscation of assets resulting from criminal acts of corruption to recover state losses which in practice are very difficult to carry out asset confiscation using the mechanisms regulated in the Criminal Procedure Code.

²⁹ Wawancara dengan Dwi Pujo Prayitno, S.H.,M.H. selaku Dosen Perdata Pada Fakultas Hukum Universitas Lampung, 13 Desember 2021, Jam 18.00 Wib.

³⁰ Ade Mahmud, "Problematisasi Asset Recovery Dalam Pengembalian Kerugian Negara Akibat Tindak Pidana Korupsi," Jurnal Yudisial 11, no. 3 (2018): 347, <https://doi.org/10.29123/jy.v11i3.262>.

³¹ Habib Adjie, "Tergerusnya Droit De Preference (Asas Prioritas) Kreditor, Ketika Debitor Tersangkut Pidana Korupsi. Jurnal Repertorium. Vol.8 No.2. November 2019.

C. Conclusion

Based on the explanation in the discussion, the research can be concluded:that:

1. Practice plunder asset results act criminal, corrupt need a very long time because the time it takes for a case to get a decision court which powerfull can use up time months even possible in a matter of years. The length of time it takes makes it easy for the defendant to hide the assets obtained and used in a criminal act so that the initial purpose of the seizure of assets, namely robbing, results in crime so that perpetrator no could enjoy the wealth that is not their right is not achieved because the perpetrator has to make an effort to dispose of the asset.
2. Deprivation against assets/goods resulting from the corruption guaranteed in the bank is installed as a mortgage; the Prosecutor is the executor of the decision. The court can confiscate assets/goods from the proceeds crime corruption, which is guaranteed in bank installed Certificate Right Dependent, as long as the court can prove that the asset was obtained from corruption and has had strong law permanent (Eintracht) because position law criminal (public) taller than civil law (private). State interest to do foreclosure to assets/goods directed obtained to be room from crime must take precedence from interest private or civil. However, if they hold the er suitable dependents object with decision then a maximum period of 2 (two) months after the court's decision, they may file an objection to the court that the case the.

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