

Legal Study of Stolen Property Collectors and Their Legal Effects According to the Criminal Code

Ahmad Barmawi^{1*}, Abdul Hakim², Maya Jannah³

^{1*2,3} Fakultas Hukum, Universitas Labuhanbatu, Indonesia

*Email: ahmadbarmawie@gmail.com, abdulhakim1846@gmail.com, mayaeriadihsb@gmail.com

ARTICLE INFO	ABSTRACT
<p>Keywords: Legal Review, Container, Stolen Goods, Legal Consequences.</p>	<p>The purpose of this study is to know about the Application of Legal Sanctions against stolen goods collectors according to the Criminal Code. The research method used in this writing is Normative Law research. Results of Discussion: Application of legal sanctions against the criminal act of possession of stolen goods in accordance with the provisions of Article 480 of the Criminal Code by fulfilling the following elements: a) Whose goods, defined as a person or perpetrator of the procurement of goods; b) Buying goods, defined as the act of purchasing goods where the goods are the result of a crime. c) It is appropriate or known and suspected that the goods obtained from the act of crime, means that it is appropriate for the buyer to have a suspicion that the goods purchased are the proceeds of crime. The judge's consideration in determining the responsibility of the perpetrator of the prosecution through the evidentiary power of legal evidence. The legal evidence used is the proceeds of crime, witness statements, expert witnesses, letters and statements of the accused. Legal sanctions for the container of stolen goods are punishable by imprisonment for a maximum of 4 (four) years or a maximum fine of Rp.900,- (nine hundred rupiah). However, the holder of stolen goods in the light category, as mentioned in Article 482 of the Criminal Code, has a maximum penalty of three months or a maximum fine of Rp. 900,- (nine hundred rupiah).</p>

INTRODUCTION

There are various crimes that occur in several regions in Indonesia. The crime or criminality that occurs is influenced by several factors. There are various factors that influence criminal offenders to commit crimes, these factors include: economic needs, drug abuse, political situations that are not conducive, unavailability of jobs and other factors. One of the crimes that often occurs is the crime of theft of goods and Procurement. Theft of goods and Theft are closely related, and are criminal offenses. In the Indonesian Criminal Code (hereinafter referred to as the Criminal Code), which is stated in Book II which regulates the form of crime, that the act intended as a crime and unlawful, namely the problem of the buyer or seller of goods originating from a theft or crime, is referred to as a container of the proceeds of crime. Criminal acts that often occur against property that is a source of public unrest are criminal acts of procurement of an item whose source comes from theft (Mamahit, 2017)(Mamahit, 2017). Between thieves and collectors are interrelated. Where, the other as the thief of the goods to be sold, while the container as the recipient or buyer of stolen goods belongs to someone else from the thief. Both thieves and thieves have clearly committed unlawful acts, where the criminal threat has been regulated in the Criminal Code. In addition to violating laws and statutory provisions, prosecution is contrary to moral, ethical and religious principles. Prosecution as a crime, as well as one of the social symptoms that grow and develop in society. (Musyafaâ, 2015) The reason someone commits a crime The possession of stolen goods is solely to obtain personal gain and provide convenience for thieves to sell the proceeds of crime, which are mutually beneficial. Therefore, with the existence of a container as a reservoir of the proceeds of theft crimes, it will make it easier for the

perpetrator to make a profit, so that the perpetrator of theft does not have to sell the proceeds of crime himself to others, because of the position of the holder as a buyer and seller.

The procurement of goods is often a problem not because of its mention, but because of its work pattern. Someone doing buying and selling activities, namely buying and selling from others, is common. But what if someone makes a sale which, the buyer does not know the origin of the goods to be purchased, whether the seller's personal property or someone else's property for sale, or sells goods that are not his own and obtained in violation of the law, will certainly be a problem that must be solved not because of the sale, but because of the provisions of the goods being traded. This can be interpreted that, not always someone who buys goods from crime can be criminalized, because it still needs to be proven legally and see all forms of elements in criminal law regarding guilt against buyers of goods resulting from theft. The element of guilt becomes important in determining whether or not a person can commit criminal law liability. The element of guilt can prove how someone got the proceeds of crime, usually the price given is not based on normal prices, but prices that are much lower than prices in general. Thus, not everyone who buys goods from the proceeds of crime can be punished under the provisions of article 480 of the Criminal Code is considered a Container, because of the incomprehension or ignorance of someone who buys goods from the proceeds of crime, If goods from the proceeds of crime are purchased at normal prices then the word profit from the proceeds of crime is not valid and cannot be proven legally. So it is necessary to conduct research with the title Legal Study of Stolen Property Collectors and Their Legal Effects According to the Criminal Code. Based on the description above, the problem is formulated about How to Apply Legal Sanctions to Stolen Goods Collectors according to the Criminal Code?

METHOD

Soerjono Soekanto argues that, research is a scientific activity based on analysis and construction carried out systematically, methodologically and consistently and aims to reveal the truth as one of the manifestations of human desire to know what is being faced." (Soekanto, 2006) Furthermore, according to Bambang Sunggono that research is a form of expression of curiosity carried out in the form or activities of scientific research. This research is carried out with a sense of confidence in the object of research will be researched by finding out the cause and effect that arises or occurs in the object of research (Bambang, 2007).

The type of research used is the type of Normative legal research. Peter Mahmud Marzuki stated that: "normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issue at hand" (Marzuki, 2010). Normative Legal Research is legal research conducted by examining library materials or secondary data (Soekanto, 2007), or often referred to as doctrinal legal research. This type of legal research according to Amiruddin and H. Zainal Asikin, often that law is conceptualized as what is written in laws and regulations or law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate. (Amiruddin, 2012) Thus, research entitled Legal Studies on Stolen Goods Collectors and Their Legal Effects According to the Criminal Code using normative legal research can be answered well, namely by involving provisions in the Criminal Code relating to the Procurement of Goods resulting from crime.

RESULTS AND DISCUSSION

A. Understanding of Destruction and Accountability for the Destruction of Stolen Goods

In the Criminal Code, it is stated that, a person can be said to be a container of stolen goods if it meets the elements contained in Article 480 of the Criminal Code, namely: buying, renting, exchanging, receiving a pledge, receiving a gift, or withdrawing profits, selling, renting, exchanging, pawning, transporting, storing or hiding an object, which is known or should be suspected that it was obtained from a crime of procurement. The possession of stolen goods falls into the category of criminal offenses. Why is the container of stolen goods or procurement activities categorized as a criminal offense? Of course, this has been in such a way as to be regulated in the provisions of the law which states that the criminal act of possession of stolen goods is clearly prohibited because it is an unlawful act, where the procurement activity is identical to the perpetrator and the proceeds of crime are very detrimental to others, besides that procurement can facilitate the occurrence of other crimes. Furthermore, "prosecution" is closely related to some crimes, such as theft. So, the existence of the impression container will make it easier for someone to commit theft. In addition, the container is known as a shelter for the proceeds of theft crimes while providing convenience for the perpetrators to make a profit, without having to sell the stolen goods directly to consumers, so the position of the container can be said to be an intermediary to sell the stolen goods to other parties.

Adahan is the beginning of the word *tadah* which means to receive or obtain which then develops or expands into a container or procurement which means to have goods from the offense or to have goods of the origin of the offense is said to be a container. Prosecution is also called the criminal act of facilitation, which is because the act of prosecution makes a person or with someone to commit a crime that may not be the one who committed it himself or not as the perpetrator of the crime, where no one person can keep the proceeds of the crime. (Lamintang, 1989) The criminal action of a container can be known from the existence of an element of guilt which is proven that the container knows and understands that the item is from a crime, if otherwise the element has not been said to be fulfilled. Criminal liability is essentially a mechanic built into criminal law in the form of an agreement rejecting certain acts. (Chairul Huda, 2015) Criminal responsibility is a form of responsibility from a person for his actions or criminal actions that have been committed.

B. Application of Criminal Sanctions against stolen goods collectors according to the Criminal Code

Criminal sanctions are punitive sanctions in the form of punishment imposed on perpetrators of criminal acts that commit unlawful acts, where these actions can harm themselves and others and have been regulated in a statutory provision. In Indonesia, the application of criminal sanctions is regulated in the Criminal Code for general crimes, while special crimes are regulated in a special law as well. The application of criminal sanctions or penalties in Indonesia against a person who has been legally proven to have committed a criminal offense, according to the provisions of Article 10 of the Criminal Code, the punishment consists of the principal crime and additional crimes. The main crimes consist of: death penalty, imprisonment, confinement and fines. While additional crimes consist of: deprivation of certain rights, confiscation of certain goods, and announcement of the judge's decision. But the most important thing is that the purpose of the punishment is more to have a deterrent effect on the perpetrators of crimes not to repeat their actions in the future.

Roeslan Saleh defines: "punishment as the last means of defense, is the culmination of a whole system that can move human nature to do things like the expectations of other societies." (Saleh, 1978) With regard to the Application of Criminal Sanctions for Counterfeit Property Collectors, it has been previously outlined that not everyone who buys stolen goods is considered a container, it must first be processed to prove whether this person meets the elements as a container. Article 480 of the Criminal Code concerning an act of collecting or holding the proceeds of crime, that the act of the container as an offense facilitates others to commit their crimes, where the proceeds of crime can be sold to the container. So that in the application of Article 480 of the Criminal Code it is known that these elements must include:

- a. Whose goods, defined as a person or the perpetrator of the procurement of goods.
- b. Buying goods, defined as the act of purchasing goods where the goods are the result of a crime.
- c. It is appropriate or known to suspect that the goods obtained from the crime, it is interpreted that it is appropriate for the buyer to have a suspicion that the goods purchased are the proceeds of crime.

If the element is fulfilled, the perpetrator can be charged with Article 480 of the Criminal Code, but conversely if the element is not fulfilled, Article 480 of the Criminal Code cannot be applied. Article 480 of the Criminal Code states that the container of stolen goods is threatened with imprisonment for a maximum of 4 (four) years or a maximum fine of Rp.900,- (nine hundred rupiah). However, the holder of stolen goods in the light category, as mentioned in Article 482 of the Criminal Code, has a maximum penalty of three months or a maximum fine of Rp. 900,- (nine hundred rupiah).

Unlike the provisions of Article 480 of the Criminal Code with the provisions of the New Criminal Code relating to the Criminal Act of Prosecution, in Law Number 1 of 2023 or the New Criminal Code, the criminal act of prosecution is regulated in Articles 591 to Article 593 of Law 1/2023 where the provisions contain points, namely: First, it contains a Criminal Threat for 4 Years or a Fine of Rp.500,000,000 (five hundred million rupiah). As for what is meant by the criminal act of procurement is any person who buys, offers, rents, exchanges, mortgages, transports, stores or hides an object that is known or reasonably suspected that the object was obtained from a criminal act; or withdraw profits from the proceeds of an object, which is known or reasonably suspected that the object was obtained from a criminal act (Article 591 Law 1/2023).

Second, Additional Crime if used as a Livelihood. If the crime of prosecution is made a habit, then the perpetrator is threatened with imprisonment for a maximum of 6 years or a maximum fine of category V (Rp.500.000.000,- (five hundred million rupiah). If the perpetrator makes this criminal act as a livelihood, the perpetrator can be sentenced to additional crimes in the form of deprivation of rights (Article 592 Law 1/2023), namely the right: (1) To hold public office in general or certain positions; (2) The right to be TNI and

police; (3) The right to vote and be elected in elections held in accordance with statutory provisions; and/or; (4) The right to parole.

Third, the crime of light prosecution. If the criminal act of procurement committed with the value of goods is not more than IDR 500,000 (five hundred thousand), the perpetrator is convicted of a light procurement, namely a category II fine or as much as IDR 10,000,000 (ten million rupiah) in accordance with Article 593 Law 1/2023. According to R. Soesilo, it is difficult to prove that the element of knowing or reasonably suspecting that the goods are the result of crime. However, in practice it can usually be seen from the circumstances or how the item was purchased, for example purchased below market price, bought at night in hiding, or bought in a suspicious place. Furthermore, Tisnadiartha and Setiabudhi explained that a person who buys goods resulting from crime cannot necessarily be criminalized, there is legal proof and consideration of all forms of criminal law elements of guilt on the buyer. Furthermore, not everyone who is considered to have purchased the proceeds of crime can be convicted for their incomprehension or ignorance.

In deciding whether or not a person is guilty of a criminal offense by the Judge, it is necessary for the judge to make the following considerations:

- a. A subjective and objective element of the criminal act of self-destruction, the judge will consider the criminal element of the perpetrator.
- b. The judge's belief, if the judge feels doubtful or unsure of the actions committed by the perpetrator, the perpetrator can be decided free in court.
- c. A number of facts at the trial, a number of evidence presented by the investigator will be considered by the judge, namely facts such as the price of goods, the relationship between the seller and the buyer, the state of the goods from the seller, and the time or place of the sale and purchase of the goods.
- d. If the perpetrator is believed to meet the elements of the criminal act of prosecution, then the judge must decide the crime for the perpetrator as responsibility for the act that has been committed.

Evidence is considered very important in the evidentiary process in criminal procedural law. Evidence is carried out to increase the judge's confidence to determine whether someone is wrong or not. In the Code of Criminal Procedure there are several valid pieces of evidence that have been determined. In Article 184 paragraph (1) of the Code of Criminal Procedure (KUHAP) it is stated that valid evidence is: witness statements, expert statements, letters, instructions and statements of the accused. Article 183 of the Code of Criminal Procedure states that: "a judge may not convict a person unless by at least two pieces of valid evidence the offender obtains a conviction that a criminal offence occurred and that the guilty accused has committed it." The evidence of the crime of possession of stolen goods, which is often used in trials, is as follows:

- a. Goods resulting from crime, namely goods obtained from stolen goods as a result of crime.
- b. Witness statement, which is information given by witnesses, where witnesses know directly the criminal act of prosecution committed by the perpetrator of the prosecution or witnesses directly related to the prosecution case.
- c. Expert Witnesses are witnesses who skillfully testify to an event of the crime of possession of stolen goods whose opinion is indispensable in a criminal trial.
- d. Guidance, namely This provision can be seen in article 188 of the Criminal Procedure Code which states that instructions are a form of action, event or an event, in accordance with either one another or criminal acts, indicating the occurrence of a criminal act that explains the perpetrator. Evidence clues are the result of an assessment of a series of evidence that is related to each other.
- e. The defendant's statement, which is information given by the defendant because of the actions he committed, experienced and known himself, that the defendant really committed the act, so that the information makes light of a problem and is supported by other valid evidence. This is in accordance with the provisions of article 189 of the Code of Criminal Procedure. This information can be used to find evidence in the trial, related to what is being charged against him.

So the conclusion is that a defendant or perpetrator of a criminal offence cannot yet be convicted of the charges imposed on him without evidence that supports and convinces him validly, as stated in article 183 of the Code of Criminal Procedure that: "a judge may not convict a person unless by at least two valid evidence, the offender obtains a conviction that a criminal act occurred and that the guilty defendant has committed it."

CONCLUSION

Application of legal sanctions against the criminal act of procurement of stolen goods in accordance with the provisions of Article 480 of the Criminal Code by fulfilling the following elements: a) Whose goods, defined as

a person or perpetrator of the procurement of goods; b) Buying goods, defined as the act of purchasing goods where the goods are the result of a crime. c) It is appropriate or known and suspected that the goods obtained from the act of crime, means that it is appropriate for the buyer to have a suspicion that the goods purchased are the proceeds of crime. The judge's consideration in determining the responsibility of the perpetrator of the prosecution through the evidentiary power of legal evidence. The legal evidence used is the proceeds of crime, witness statements, expert witnesses, letters and statements of the accused. Legal sanctions for the container of stolen goods are punishable by imprisonment for a maximum of 4 (four) years or a maximum fine of Rp.900,- (nine hundred rupiah). However, the holder of stolen goods in the light category, as mentioned in Article 482 of the Criminal Code, has a maximum penalty of three months or a maximum fine of Rp. 900,- (nine hundred rupiah).

REFERENCES

- Amiruddin, H. (2012). Zainal Asikin, Pengantar Metode Penelitian Hukum. *Jakarta: Rajawali Pers.*
- Bambang, S. (2007). Metodologi Penelitian Hukum, PT. *Raja Grafindo. Jakarta Persada. Jakarta.*
- Chairul Huda, S. H. (2015). *Dari'Tiada Pidana Tanpa Kesalahan', Menuju'Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan'*. Kencana.
- Lamintang, P. A. F. (1989). Delik-Delik Khusus Kejahatan-Kejahatan Terhadap Harta Kekayaan. *Bandung: Sinar Baru.*
- Mamahit, C. (2017). Aspek Hukum Pengaturan Tindak Pidana Penadahan Dan Upaya Penanggulangannya Di Indonesia. *Jurnal Hukum Unsrat, 23(8).*
- Marzuki, P. M. (2010). Penelitian Hukum, Jakarta. *Kencana Prenada Media.*
- Musyafaâ, A. W. N. (2015). Hukuman Bagi Pelaku Tindak Pidana Penadahan Dengan Sistem Gadai. *Al-Jinayah: Jurnal Hukum Pidana Islam, 1(2), 336-341.*
- Saleh, R. (1978). Stelsel Pidana Indonesia. *(No Title).*
- Soekanto, S. (2006). Pengantar penelitian hukum. *(No Title).*
- Soekanto, S. (2007). *Penelitian hukum normatif: Suatu tinjauan singkat.*