

Juridical Review of The Criminal Action of Forgery Signature in Making Land Certificate

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ABSTRACT

This study aims to understand and find out how the material criminal law applies to falsification of land certificates in case No.286/Pid.B/PN.Wtp. as well as to understand and know the judge's considerations in deciding the case on the decision on Case No. 286/Pid.B/2021/PN.Wtp. This research was conducted in Bone Regency by selecting Class 1A Watampone District Court Agencies which had sufficiently relevant data regarding the title to be studied. Using a research method with a case approach and analyzing data descriptively which is then given conclusions and suggestions related to the title. The research results obtained that the Public Prosecutor's indictment has been fulfilled in a subsidiary manner and has clearly described the identity of the defendant accompanied by the actions that have been committed by the defendant.

Keywords: *Material crime, subsidiary, legal force, land title*

INTRODUCTION

In Indonesia, there are various kinds of legal regulations, including criminal law (Yanto et al., 2020; Rofiq et al., 2019). Criminal law plays a very important role in realizing justice. Criminal law is a whole of all regulations that can determine a behaviour regarding what is prohibited and related to criminal acts, and provides what law will be imposed on someone who commits a criminal act. The increasing knowledge and technology in today's society cannot be denied that it can drastically change one's mindset and lifestyle to become instantaneous and more practical so that it is easier to do everything. This has also resulted in an increasing number of crimes and violations, giving rise to new forms of crime. As is well known, crime is an act that is contrary to the interests of the law in carrying out social life. Meanwhile, violation is a behaviour that does not comply with a rule or requirement that has been set by the holder of power that is against the rule of law.

Therefore, in taking an action, it must be thought through beforehand, and ensure that the action does not violate the rules. The development of society in this modern era has a significant impact on providing space for crime. As is the case in carrying out an act of forgery in the manufacture of an important letter or document which is a serious form of crime because it can harm other parties. Counterfeiting is a crime which contains an element of untruth or fake, or something (object) that looks from the outside as if it is true even though in fact it is contrary to the truth. As applicable law in Indonesia, counterfeiting which causes many things is a crime regulated in Chapter XII of the Criminal Code, namely in Article 263 of the Criminal Code.

Article 263 of the Criminal Code states that: Whoever makes a forged letter or falsifies a letter, which can give rise to a right, an agreement (obligation) or a debt discharge, or which may be used as a statement for an action, with the intention of using or ordering someone else to use the said documents. as if the letter is genuine and not forged, then if using it can result in a loss being punished for forging the letter, with a maximum imprisonment of six years. With a similar punishment, whoever deliberately uses a forged or forged letter as if the letter were genuine and not forged, if the use of it can result in a loss. Forgery of letters and signatures or what is known as forgery is a crime that is difficult to detect and prove because handwriting and signature are characteristic of a person's personality (Kipouras, 2021), and in proving the truth, an examination must be carried out that can explain that the handwriting or signature is fake (Mirić & Arandelović, 2021). through a criminalistic laboratory examination.

So, it is undeniable that at this time acts of forgery are increasingly being carried out, such

as the problem of falsifying land rights by falsifying the signature of a party who has rights over the land. This incident resulted in a person losing his own land rights, and giving an advantage to other parties who commit counterfeiting to control the land that is the object. Ignorance of the public in this matter results in unlawful acts, so that these actions can be brought to trial to be tried. Therefore, it is very necessary to have legal certainty in the ownership of land rights (Ramadhani, 2021). To obtain the desired land rights, the community needs to register the land with the Land Agency to obtain a certificate of land ownership rights.

METHODS

This research is descriptive in nature, namely research that will describe the circumstances or problems that have occurred by collecting data, classifying, and analyzing the case. To obtain important legal principles in seeing violations or crimes that have been committed. In this study the author will use the Case Approach method, which is a type of approach that is carried out by examining cases related to the issue at hand, and has become a decision that has permanent legal force. The main study in this case approach is the ratio decidendi or reasoning, namely the court's considerations in arriving at a decision. The type of research using normative research is an approach carried out by the author to find out how the application of norms or legal rules will be applied regarding the cases to be studied, this is done to get an overview of the consequences if there is a violation of legal norms or rules in practice. Primary data is data that comes from legal materials that are related or binding in the form of basic norms or rules, legislation, as well as judges' decisions in court, which are related to the case to be examined by the author, especially at the Watampone Class 1A District Court. Secondary data is data that comes from information obtained from the literature contained in a book or related journals and from the judge's decision regarding the object to be studied.

RESULTS

Implementation Of Material Criminal Law In Case Decisions No.286/Pid.B/2021/Pn.Wtp

The judge who handles this criminal act tries to find the root of the problem and can provide evidence of material truth based on various facts that have been revealed during the trial process, and can comply with the indictment that has been formulated by the Public Prosecutor. Therefore the author first discusses the description of the position of the case in the decision of the Class 1A Watampone District Court Number: 286/Pid.B/2021/PN.Wtp. The identity of the Defendant, the Watampone District Court which tried a criminal case by means of an ordinary examination at the first instance passed a decision in the defendant's case: Position of the Case, the case began when Mr. AS Bin Ms wanted to register a plot of land with an area of 1,243 m² which did not fully belong to Mr. AS himself but belonged to someone else, namely Mr. H. M Dg. Matteru Bin H.D. Dg. Makkelo. In order to obtain the land certificate, the defendant came to the Pallawarukka Village Office and met Mr Andi B.SE. Bin Andi R as Head of Pallawarukka Village to request land certificate arrangements. Andi B, SE. then ordered the defendant to deal with Andi Sy A.Ma as the Village Secretary to take care of making the land certificate.

The defendant was asked by Andi Sy, A.Ma. to prepare the documents required for registration of land certificates. Andi I then took the form of the application for a land certificate at the Bone Regency Land Agency Office and then handed it over to the defendant to fill it out. After the land measurement was carried out by the Land Agency, the defendant was asked to immediately complete the survey form to request signatures from the neighbors of the land adjacent to the land for which the certificate was being applied for. The defendant then approached the owner of the land which has a border with the land for which the certificate is to be applied for except for Mr. H. M. Bin Dg. Matru because he had a difference of understanding, and the defendant himself signed on behalf of Mr. H.M. After all the files were completed, the defendant then handed them back to the Bone Regency Land Agency. In 2018 a land certificate was issued in the name of Tn.AS, Number 114 with an area of 1,243 m², and the certificate is on the land of H.M. Bin Dg. Materu, who had previously issued a certificate of title No. 19 in 1997 in the name

of H. Dg. Materu with an area of 1980 m², with that the land area of Dg. Materu was reduced to 736 m² resulting in a loss of approximately Rp. 700,000,000 (seven hundred million rupiah). The Public Prosecutor's Indictment, the Defendant was brought to trial by the Public Prosecutor and charged based on the indictment.

Primair That he was the defendant Tn.AS, Bin Sinrang Dg.Masiga around March 2018 or at least at another time in 2018, located in Pallawarukka Village, Ulaweng Subdistrict, Bone Regency or at least in another place that is still included in the jurisdiction of the Watampone District Court, making fake letters or falsifying letters that can give rise to a right or which can be benefited as evidence of something with the intention of or ordering other people to use the letter as if the contents were true and not falsified are threatened if such use may cause harm/ forgery of letters committed by the defendant. Because he wanted to control a plot of land that did not belong to him but belonged to someone else, namely H. M. Dg.Matteru Bin H.D. Dg.Makkelo, the defendant went to the Pallawarukka Village Office to meet Andi B, SE Bin Andi Rumpang who served as the Head of Pallawarukka Village, Ulaweng Sub-District, Bone Regency to ask for a certificate for a plot of land located in Pallawarukka Village, Ulaweng Sub-District, Bone Regency, then the defendant expressed his desire to make a certificate on the land, so Andi B. ordered the defendant to deal with Andi sy. A. Ma Bin Andi Rumpang who also happened to be at the Village Office.

After the defendant met Andi A.Ma Bin Andi Rumpang, the defendant was asked by Andi Sy to prepare documents in the form of proof of ownership of the land to apply for a certificate. Then Andi Sy. A, Ma took the form of the application for a certificate at the Bone Regency Land Agency Office, then Andi Sy. A.Ma handed over the stamps to the defendant to fill out. When the Bone Regency Land Agency was about to carry out measurements of the location object for which the certificate was being applied for, the defendant contacted Andi Sy. A.Ma that the Bone Regency Land Agency will carry out the measurement so Andi Sy,A.Ma assists the land party in carrying out the measurement. After measuring the location object for which the certificate was applied for, the Bone Regency Land Agency took all the administrative stamps for the land certificate application that Andi Sy had taken. A.Ma at the BPN office except for a statement letter from Tn.AS (defendant) and Blank Measuring Drawing Letter Number 346 of 2018 because the blank measuring drawing letter must have the approval of interested neighbors so the defendant is ordered to seek approval from the neighbors of the land object for which the certificate is being applied for by signing the measurement letter number 346.

That after the defendant received the measurement letter, the defendant went to a neighbor who borders the location of the land object for which the certificate is being applied for, except for H. M. Dg. Matteru (the victim) because there was a difference of understanding between the defendant and H.M. Dg.Materu so that the defendant signed himself on behalf of H.M. Dg.Matteru then the defendant submitted a measurement letter number 346 along with a statement letter and other complete documents to Andi Sy.A.Ma as a complete application for a certificate, then the measurement letter along with a statement letter and other complete documents were submitted to the Bone Regency Land Agency. Whereas around 2018 a certificate was issued in the name of Mr. AS, number 114 with an area of 1,243 m² and the certificate was located on the land of H.Muhammadiyah Dg.matteru, which had previously been issued a certificate of ownership number 19 year 1997 in the name of H.M.Dg.Matteru who with an area of 1980 m², H.Muhammadiyah Dg.Matteru's land area decreased to approximately 736 m² resulting in the loss of some of his land, resulting in an estimated loss of approximately Rp. 700,000,000. - (seven hundred million rupiah) or at least more than Rp. 2,500,000. - (two million five hundred rupiah) because they cannot control the land because it is already controlled by the defendant.

Based on the results of the Criminalistic Laboratory examination No. Lab: 3697/DTF/IX/2020 dated 10 September 2020 which was signed by AH,ST.M.Adm.SDA, Ang S Amd, YCT, ST as the examiner has examined the signature on behalf of H.M.Dg. Matteru consists of 4 (four) signatures on the evidence document, facilitating further mention in the minutes of this event which is referred to as Questioned Signatures (Qt1 to QT4) while the signature is on behalf

of H.M. Dg. Matteru Bin H.D. Dg.Makkelo in the comparison document is called Knoen Signature (KT). After examining the proof signatures (QT1 to QT4) and the signatures of the comparison, KT cannot be determined to be identical or non-identical, because the proof signatures (QT1 to QT4) are spurious signatures that have a general design (shape general) is different and does not refer to/imitate the signature of the comparator (KT). Attached are 4 (four) photos from QT1 to QT4 and 4 (four) representative photos from KT. As regulated and subject to criminal penalties in article 263 paragraph (1) of the Criminal Code (KUHP).

Based on the results of a criminalistic laboratory examination No.Lab: 33697/DTF/IX/2020 dated 10 September 2020 signed by Atik Harini, ST.M.Adm.SDA, Angelia Sherly, Amd, Yuliana Carica tanjung, ST as the examiner has conducted an examination to the signature on behalf of H. Muhammadiyah Dg.Matteru consisting of 4 (four) signatures on the evidence document, facilitating further mention in this report is referred to as Questioned Signature (QT1 to QT4) while the signature is on behalf of H.Muhammadiyah Dg.Matteru Bin H.Dulla Dg.Makkelo in the comparison document is called Knoen Signature (KT). After examining the proof signatures (QT1 to QT4) and the signatures of the comparator KT, it cannot be determined to be identical or non-identical, because the proof signatures (QT1 to QT4) are spurious signatures that have a general design (shape general) is different and does not refer to/imitate the signature of the comparator (KT). Attached are 4 (four) photos from QT1 to QT4 and 4 (four) photos from representatives from KT.

As regulated and subject to punishment of one Article of the Criminal Code (KUHP). Public Prosecutor's Claims. Based on the description of the position of the case and the charges brought against the defendant, Mr. AS bin Sinrang Daeng Masiga, the Public Prosecutor basically demanded that the Panel of Judges at the Watampone Class 1A District Court state the following: Declare Tn.AS bin Sinrang Dg.Massiga, guilty of committing the crime "Anyone who deliberately uses a letter whose contents are incorrect or forged as if it were true and not forged, if the use of the letter can cause harm" as regulated and punishable by crime in Article 263 paragraph (2) of the Criminal Code; Sentenced a sentence against the defendant for 2 (two) years with a reduction while the accused was in temporary detention by order for the accused to remain in custody; State the evidence in the form of: Statement of Mr. AS. March 15, 2018, Measurement Drawing Letter Number 346 of 2018, Family Card No. 8171919312090063 on behalf of Mr. AS dated December 7, 2009, Family Card No. 7308141908110001 on behalf of H.M. 01 August 20018; Letter of Receipt of Police Report Number: STTLP/93/II/2019/SPKT/RES BONE dated 09 February 2018; Certificate of difference in name Number: 12DUC/II/2020, dated 21 February 20020; Declare that all evidence is returned to the rightful party. Stipulates that the Defendant Tn.AS Bin SINRANG Dg. MASSIGA paid court fees of Rp. 2,000.00 (two thousand rupiahs);

Ruling on Verdict

By paying attention, article 263 paragraph (2) of the Criminal Code Jo. Law Number 8 of 1981 Concerning the Criminal Procedure Code and other relevant laws and regulations, the Panel of Judges at the Watampone Class 1A District Court passed a decision, namely: Declare that Mr. AS Bin Sinrang Dg. Massiga, has not been proven legally and convincingly guilty of committing a crime in the Primary Indictment; Release the Defendant from the primary indictment; Declare the defendant Mr. AS Bin Sinrang Dg. Massiga has been legally and convincingly proven guilty of committing the crime of intentionally using fake or forged documents as if they were genuine and not forged; Sentenced punishment against the Defendant and therefore with imprisonment for 8 (eight) months; Determined that the period of arrest and detention that had been served by the Defendant was deducted in its entirety from the sentence imposed; Ordered the accused to remain in custody, Establish evidence in the form of: Statement of Mr. AS, dated March 15, 2018, Measurement Drawing Letter Number 346 of 2018, Family Card No. 8171919312090063 on behalf of Mr. AS. December 7, 2009, Family Card No. 7308141908110001 on behalf of H.M, dated 01 August 20018, Letter of Receipt of Police Report Number: STTLP/93/II/2019/SPKT/RES BONE dated 09 February 2018, Certificate of difference in name

Number: 12DUC/II/2020, dated 21 February 2020, Declare that all evidence is returned to the rightful party, Charged the Defendant to pay court fees in the amount of Rp. 2,000.00 (two thousand rupiahs).

DISCUSSION

In resolving a criminal case, it is inseparable from the division of criminal law, namely material criminal law and formal criminal law (Pemberton et al., 2019). Material criminal law is a rule that determines and describes all actions that can be subject to criminal law and provisions regarding said crime, while formal criminal law is how a country, through the mediation of its equipment, exercises its right to impose an appropriate punishment. In order to achieve a material truth contained in the decision Number 28/Pid.B/2021/PN.Wtp, the Class 1A Watampone Court Panel of Judges handling the case has examined and examined carefully all circumstances or events during the trial process, whether in the form of all legal facts which have been revealed from all evidence in the form of witness statements, expert statements, as well as from the defendant's own statement to the existence of evidence supporting the occurrence of a criminal act (Matos et al., 2019), which results in the belief that the defendant has been proven guilty of having committed an act crime as defined in the indictment of the public prosecutor against whom he was charged. In this case the public prosecutor used a subsidiary charge, namely the primary charge under Article 263 paragraph (1) of the Criminal Code regarding making fake letters and a subsidiary charge under Article 263 paragraph (2) regarding deliberately using fake letters. According to the author himself, the use of subsidiary indictments carried out by judges is appropriate because if the Public Prosecutor is confused in determining the article that is in accordance with the defendant's actions, then the Public Prosecutor should use subsidiary indictments in order to be able to see which article is more appropriate and fulfills all the elements of the article. This is intended to give the panel of judges a choice to examine or decide on a more appropriate charge to apply to the defendant, so as not to give the defendant a gap to be free from the actions he has committed.

Based on the subsidiary indictment that has been determined by the Public Prosecutor (Cassidy, 2018), namely the primary indictment of Article 263 paragraph (1) of the Criminal Code regarding making fake letters and the subsidiary charge of Article 263 paragraph (2) regarding intentionally using fake letters, therefore elements of one of the of the two articles charged by the public prosecutor must be fulfilled so that the defendant can be subject to criminal law. In relation to the indictment of the public prosecutor, that the defendant had forged documents. In the trial process, the charge that was successfully proven and legally believed by the Panel of Judges was the Subsidair Indictment, namely violating Article 263 paragraph (2) of the Criminal Code Jo. Law Number 8 of 1981 concerning the Criminal Procedure Code. According to Article 263 paragraph concerning Forgery of Letters. As the element in Article 263 paragraph (2) namely "whoever" is meant by whoever, that is, any party involved who has rights and obligations or as a legal subject who can be held accountable in the eyes of the law. In this case, the defendant Tn. AS Bin SINRANG Dg. MASSIGA has been processed before the trial where its identity has been confirmed when the indictment was read out in the first trial process. Therefore, these elements are declared fulfilled according to law. The element "intentionally", according to VOS, is intentional if the maker wants the consequences of his actions. He never commits his actions if the maker knows that the consequences of his actions will not occur.

That based on the testimony of witnesses and the statement of the defendant Tn. AS Bin SINRANG Dg. MASIGA that the defendant had used a measuring drawing letter containing the signature of the forged or falsified boundary agreement which was real and clearly unlawful because there was an element of error accompanying the defendant's actions. Apart from that the defendant never clarified the truth of the signature of H.M. in the boundary agreement (Wynn & Israel, 2018). Therefore, the defendant already knew if the signature in the measuring drawing letter was a forged signature, for this act the element was stated to be fulfilled according to law (Gardiner, 2019). The element "which can cause harm to other people" with the issuance of

Property Rights Certificate Number 114 in 2018 with an area of 1,243 m² in the name of the defendant Tn. which had previously been issued a Property Rights Certificate Number 16 in 1997 with an area of 1,980, this resulted in a loss to H.M. because he lost his property rights of approximately 736 m² because it was included in certificate number 114 in the name of the Defendant Tn.AS. Therefore, the elements that can cause harm to other people have been fulfilled and legally convincing (Simana, 2018).

Based on this description, that the elements contained in Article 263 paragraph (2) have all been fulfilled, therefore the defendant Mr. AS Bin SINRANG DG. MASIGA has been proven legally and convincingly guilty of committing the crime of "Forgery of Letters" as charged in the Public Prosecutor's indictment for violating Article 263 paragraph (2). From all examinations during the trial process, where there was evidence that had the charges filed by the Public Prosecutor in the subsidiary indictments are appropriate, therefore the Panel of Judges at the Watampone Class 1A District Court stated that all elements of the defendant's actions were in accordance with Article 263 paragraph (2) Jo. Law Number 8 of 1981 concerning the Criminal Procedure Code, so that the defendant in this case is subject to a prison sentence of 8 (eight) months.

Based on the indictment of the Public Prosecutor, which in his charge, sentenced him to imprisonment for 2 (two) years minus the time the defendant was in custody, however, the Panel of Judges in this case imposed a prison sentence of 8 (eight) months and acquitted the defendant in the primary charge. filed by the Public Prosecutor (Allen et al., 2019). In this case the defendant is in good physical and mental health so that he is able to take responsibility for his actions. Basically, the writing that has been signed, constitutes very damning evidence and results in a person who does this being liable to a criminal penalty. The signature evidence is only preliminary evidence, in other words, it must be supported by other evidence that supports the defendant's actions (Gowensmith, 2019). In this case there is valid evidence and can be used as a consideration for the judge to impose criminal sanctions on the defendant in the form of a statement of sanctions, instructions and statements of the accused. The suitability of the evidence and evidence that has been submitted in the trial process, can obtain legal facts that can be used as a basis by the judge to gain confidence in deciding the case.

CONCLUSION

The application of criminal law to Decision Number 286/Pid.B/2021/PN.Wtp is in accordance with the provisions of material criminal law. Based on the legal facts that have been revealed during the trial process, both from witness statements to evidence, which are then explained in the indictment by the public prosecutor, it is correct and correct. In this case the defendant was charged with Article 263 paragraph (2) of the Criminal Code, which is because the elements contained in Article 263 paragraph (2) have all been fulfilled and match each other.

SUGGESTION

To achieve legal certainty in handling document forgery, it is important for law enforcement officials, especially public prosecutors and judges, in handling forgery cases to be more careful about the facts that have been revealed in court and see and pay attention to the legal basis in accordance with the defendant's actions. In giving a decision to someone who commits forgery of letters, a judge must look at and consider his decision in order to provide a greater sense of justice for both parties or all parties concerned, and provide a deterrent effect on the accused so he does not repeat his mistakes.

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