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Proof of There Are State Financial Losses as the Basis of Determining Criminal Acts of Corruption: An Analysis of Decision Number 07/Pid.Sus-TPK/2017/PN. Mdn

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Abstract:

The aim of this research is to determine the process of proving the existence of state finances losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017/PN.Mdn. this research is normative in nature, the data required is secondary data in the form of available data contained in legal materials consisting of primary legal materials, namely binding legal materials. The data collection technique is done by document study. The data obtained were then processed and analyzed by prescriptive and descriptive analysis. The results showed that proving the existence of state losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017PN. Mdn is based on the assessment that the defendant is a Commitment Making Officer in Machinery Procurement Activities/Laundry equipment at the Health Office, deliberately did not supervise, in the implementation of the contract it actually realized the payment of work without prior verification of the work results, which according to the Audit Result Report of the State Audit Agency of the Republic of Indonesia (BPK RI) had incurred expenses resulting in a State loss of Rp. 231,072,354.50 (two hundred thirty-one million seventy-two thousand three hundred and fifty-four rupiah and fifty cents).

Keywords: Proof, state financial, losses, basis of determining criminal act of corruption

1. Introduction

The element is detrimental to state finances becomes a specialty in determining the existence of a criminal act of corruption, which often creates debate in assessing the existence of state finances losses. The definition of state finances losses in Article 1 point 22 of Act Number 1 of 2004 concerning State Treasury, requires that there are real state finances losses in the meaning of material offenses, while the provisions of Act Number 31 Number 1999 concerning The Criminal Act of Corruption, adhere to the concept of state finances losses in the sense of offense formal. The concept of a formal offense can be concluded from the provision that the existence of a criminal act of corruption is sufficient by the fulfillment of the elements of an act that has been formulated without the consequence, therefore, real state loss is not needed as long as it is supported by evidence that points to potential state loss. The element that can harm state finances should be interpreted as causing losses to the state in the direct or indirect sense. This means that an automatic action can be considered detrimental to state finances if the action has the potential to cause state losses. According to the State Treasury Law which adheres to the concept of state finances loss.

In Decision Number 07/Pid.Sus-TPK/ 2017/PN.Mdn, the panel of judges stated that the defendant dr. HidayatM.Kes is not legally proven and convincing guilty of committing illegal acts, which harm the country's finances/economy as stipulated in Article 2 paragraph (1) jo. Article 18 of The Criminal Act of Corruption but has been legally and convincingly proven guilty of committing an act. abusing the authority, opportunity or means available to him because of his position or position which could harm the state finances or the state economy of corruption as regulated in Article 3 of The Criminal Act of Corruption in the subsidiary charges, on the grounds that the act committed by the defendant was in the procurement of machinery/laundry equipment at the Batu Bara District Health Office TA. 2013 based on the Work Agreement Number 614/SP.13/PPK/ DINKES-BB/ 2013 dated May 13, 2013 resulting in state finances losses.

In his consideration, it is stated that what is meant by detrimental to state finances is the same as being a loss or being reduced, so that what is meant by the element of detrimental to state finances is to result in loss of state finances or decrease in state finances, as stipulated in Article 1 number 15 of Act Number 15 2006 concerning the Supreme Audit Agency, that the state/regional finances losses are shortages of money, securities, and goods, which are real and definite as a result of unlawful acts, whether deliberately or negligently.

The assessment or interpretation of the existence of the state finances losses is often a topic of debate in the process of law enforcement on corruption. The Constitutional Court, in its decision Number 25/PUU-XIV/2016, decided that law enforcement officers must prove that there is a finances loss to the state before investigating a corruption case because many investigations are considered arbitrary. A judge's decision or jurisprudence is the result of a process of legal

¹ discovery by a judge when adjudicating a case as outlined in the consideration and in his decision (Suhardin&Siahaan, 2014: 39).

This is what is interesting for the author to try to analyze the process of proving the existence of state losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017/PN.Mdn,

2. Literature Review

2.1. Element of State Finances Losses or the Country's Economy

The term corruption in English is known as *corruption* in French it is called *corruption* and in Dutch it is *corruptie*. Henry Campbell Black in Black's Law Dictionary (1999) describes corruption as an act that is committed with the intention of providing several benefits that are contrary to the duties and rights of others.

Corruption is an extraordinary crime so that the solution must also be extraordinary and extraordinary. This is because the perpetrators have an adequate level of education and are very professional in their fields, hold positions and powers and understand the work environment and have a formula to avoid tracking corruption and hide evidence of crimes very neatly (Syamsudin, 2011: 1).

Corruption can be defined as the abuse of power/trust for personal gain. The definition of corruption also includes the behavior of officials in the public sector, both politicians and civil servants, who enrich themselves inappropriately and violate the law, or those who are close to bureaucratic officials by abusing power. One of the comprehensive steps that the Indonesian criminal justice system can take to enforce the law is to formulate a criminal imposition system in the form of a relatively more adequate replacement money to recover state losses (Martiman Prodjohamidjoyo, 2009: 98).

Corruption is all actions or actions that are threatened with sanctions as stipulated in the Law on the Eradication of Corruption. The existence of a state financial loss or state economy becomes an element of the corruption offense regulated in Article 2 and Article 3 of the Corruption Crime Law which contains the words, "which can harm state finances or the country's economy".

This element is important in determining whether or not the perpetrators of corruption can be convicted. Normatively, if all the elements in Article 2 and Article 3 are proven, then the perpetrator can be sentenced to imprisonment or compensation. This concept allows that the existence of actions (against the law) enrich oneself even though there is no definite state loss, the element of state loss can already be applied.

According to Article 2 of the law, the action referred to is an act against the law, enriching other people / entities that harm the country's finances / economy. Article 2 paragraph (1) of the Corruption Crime Law states that every person who illegally commits an act of enriching himself or another person or a corporation that can harm the state finances or the state economy, will be punished with imprisonment of at least 4 years and a maximum of 20 years and a maximum fine of at least 200 million rupiah and at most 1 billion rupiah.

The word 'can' before the phrase 'financial loss or the country's economy' indicates that the criminal act of corruption is a formal offense, which is interpreted as causing loss to the state in a direct or indirect sense. This means that an automatic action can be considered detrimental to state finances if the action has the potential to cause state losses.

The element of being against the law in criminal acts of corruption must be understood both formally and materially because corruption occurs systematically and extensively, not only detrimental to state finances, but also hindering the growth and continuity of national development which demands high efficiency is a violation of social and economic rights society at large, so that it is classified as an extra ordinary crime, so its eradication must be carried out in extraordinary ways (extra ordinary efforts).

The definition of state finances according to Article 1 number 1 of Act Number 17 of 2003 concerning State Finance is all rights and obligations of the state which can be valued in money, as well as everything in the form of money or in the form of goods that can be used as property in connection with the implementation of these rights and obligations. Article 1 number 22 Law Number 1 of 2004 concerning State Treasury determines state / regional losses as shortages of money, securities, and goods, the real and definite amount as a result of unlawful acts, whether intentional or negligent.

The state economy is economic life which is structured as a joint effort based on the principle of kinship or community effort independently based on government policies at both the central and regional levels in accordance with the provisions of the prevailing laws and regulations which aim to provide benefits, prosperity and welfare to all life people.

Based on the Decision of the Constitutional Court of the Republic of Indonesia, which in essence states, the explanation of Article 2 paragraph (1) is against the law which includes acts against the law in a formal sense, as well as, in a material sense, namely even though the act is not regulated in statutory regulations, declared to have no binding legal force.

2.2. Evidence System of Corruption Crime

Proving means convincing the judge about the correctness of the arguments or arguments presented in a dispute, so that proof is only needed in disputes or cases before a judge or court (Butarbutar, 2016: 22).

The legal basis for proof in the criminal procedural law refers to Article 6 paragraph (2) of the Law on Judicial Powers, which stipulates that no one can be sentenced to crime, unless the court, due to legal means of evidence

¹ according to law, has the conviction that someone who is deemed responsible 2016: for the act he is accused of, which is later confirmed in Article 183-189 of the Criminal Procedure Code that a judge may not impose a sentence on a person unless at least two valid pieces of evidence are convinced that a criminal act actually occurred and that the defendant was guilty of doing it.

In the Criminal Procedure Code, the evidentiary system is regulated in Article 183 which stipulates the prohibition for a judge to impose a sentence on someone without prior proof, with at least two legal means of evidence to gain conviction that a criminal act actually occurred and the defendant committed it.

The Corruption Crime Law stipulates that reverse evidence is the right of the defendant to prove that he has not committed a corruption crime and is obliged to provide information regarding all his property and property of his wife or husband, children, and any person or corporation suspected of having a relationship with the case in question. in the trial process. The application of reverse evidence in a criminal act of corruption can be seen in terms of:

- The accused has the right to prove that he did not commit a criminal act of corruption.
- In the event that the defendant can prove that he has not committed a criminal act of corruption, then the information is used as an advantage for him.
- The defendant is obliged to provide information regarding all of his assets and the assets of the wife or husband, children and property of any person or corporation suspected of having a relationship with the case in question. (4) in the event that the defendant is unable to prove that the wealth is not equal to his income or the source of the increase in his wealth, the information can be used to strengthen the existing evidence that the defendant has committed a criminal act of corruption.

The reverse burden of proof can be used in criminal acts of corruption in the form of gratuities and bribery. This reverse burden of proof is balanced and limited. This means that the defendant has the obligation to prove that he did not commit corruption/did not receive gratuities. If the defendant can prove his argument that he did not commit a criminal act of corruption it does not mean that the defendant is not proven to have committed corruption. The public prosecutor is also given the burden to prove his indictment

3. Research Methods

In general, getting answers to the problems posed is the goal of a research (Butarbutar, 2018: 122). Thus, the aim of this research is to determine the process of proving the existence of state finances losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017/PN.Mdn. Because this research is normative in nature, the data required is secondary data in the form of available data contained in legal materials consisting of primary legal materials, namely binding legal materials.

The data collection technique is done by document study. The data obtained were then processed and analyzed by prescriptive and descriptive analysis. In normative legal research, data processing is defined as an activity to systematize legal materials by classifying data to facilitate analysis and construction (Soekanto, 2012: 251). Because the nature of the law itself is prescriptive or obligatory, the analysis is carried out prescriptively and is intended to provide an argument for the results of the research that has been carried out with the aim of providing true or false or what should be according to the law the facts or legal events of the results of the research conducted (Fajar&Achmad, 2015: 183). Descriptive analysis is an analysis by describing or describing the subject and object of research that has been done.

4. Results and Discussion

The existence of a state financial loss or state economy becomes an element of the corruption offense as regulated in Article 2 and Article 3 of Act Number 31 of 1999 jo. Act Number 20 of 2001 concerning Corruption Crimes. Thus, in order to be able to find out the process of proving the existence of state finances losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017/PN.Mdn, judges' considerations must be discussed regarding the evidence of elements of corruption that are detrimental to state finances. Assessing the evidence becomes the basis for the judge to make a decision. Reasons or considerations become the basis of the judge's responsibility for the decision (Mertokusumo, 2013: 15)

In Decision Number 07/Pid.Sus-TPK/2017/PN.Mdn, the panel of judges stated that the defendant dr. Hidayat, M.Kes was not legally proven and convinced guilty of committing illegal acts, enriching other people/bodies that harm the country's finances/economy as stipulated in Article 2 paragraph (1) in conjunction with Article 18 of the Corruption Act in the primary charge Article 2 paragraph (1) of the Anti-Corruption Law contains elements of any person who illegally commits an act of enrichment to himself or another person or a corporation that can harm state finances or the state economy, not much different from the provisions of Article 3 of the act, there is an element of financial loss to the state or the state economy besides for the purpose of benefiting oneself or another person or a corporation, the element of abusing the authority, opportunity or means available to it due to the position or position and identification of the perpetrator, as the perpetrator, who orders to do or participate in doing so as well as doing deeds

Based on these provisions, the following elements must be proven first:

4.1. The element of Each Person

According to Article 1 point 3 of Act Number 31 of 1999, each person is an individual or includes a corporation. The definition of each person in these provisions is general in nature, namely anyone, whether an individual or a corporation and is not required to have certain characteristics (*persoonlijkbestandeel*) whether the perpetrator of the criminal act of corruption is a civil servant or a non-civil servant, but is able to be responsible for his actions. that.

¹ The identity of the indictment letter has also been confirmed by the defendant, it is true that the defendant served as PPK is based on the Decree of the Head of the Batu Bara District Health Office Number: 440/247/2013 which has the following main functions,

- Planning the process of procuring goods and services,
- Compiling and stipulating technical specifications for activities, and self estimated price (hps),
- Sign a letter of provision of goods and services determination (spbbj) and determine the amount of implementation guarantee,
- Signed a contract and the minutes of the work results,

In connection with the statement of partner witness Drs. Denny Emil Pakpahan as Commissioner of CV. AntorParaja in the activity of procuring laundry machines / equipment at the Health Office, it was true that he accepted a job from a defendant who was legally capable of being responsible for his actions. Thus the "everyone" element has been fulfilled.

4.2. Elements against the Law

Elucidation of Article 2 paragraph (1) of the Corruption Act, determines that what is meant by violating the law includes acts against the law in a formal sense as well as in a material sense, that is, even though the act is not regulated in legislation, if the act is considered despicable because it is not in accordance with the sense of justice or the norms of social life in society, then the act can be punished.

Based on the testimony of the witness Drs. Drs. Denny Emil Pakpahan as Commissioner of CV. AntorParaja was correct in accepting the job of the defendant and knowing the Minutes of Payment dated October 2, 2013 between the defendant Dr. Hidayat, M. Kes as the Commitment Making Officer (PPK) of Batu Bara District Health Office as the first party with JonwedyBarimbing as Deputy Director of CV. AntorParajaRp. 1,078,700,000, -, because at that time the witness Drs. Denny Emil Pakpahan accompanied brother JonwedyBarimbing, and in connection with the work payment fund, the amount mentioned above had already entered CV's account. AntorParaja but then after entering CV's account. AntorParaja asked the funds to be issued to CV. Dempo Sejahtera Abadi, this was done by witness Drs Denny Emil Pakpahan were also for the handover witness Drs Denny Emil Pakpahan received what was due to him, namely a profit of 1.75% after being deducted by PPN and PPH taxes.

The action of the defendant to make an Estimated Own Price (HPS) for work activities and as the Commitment Making Officer who made and determined the Estimated Own Price (HPS), was based on the proposal submitted by the partner/distributor to the Batu Bara District Health Office, judged by the panel of judges as an act of abusing authority, opportunity or other means. Is there because of his position or position as referred to in Article 3 of the Corruption Act and not an illegal act as referred to in Article 2.

The judges assessed the element of being against the law for deliberate purposes, meaning that the perpetrator had the intention and awareness of the act committed, while the meaning of beneficial was gaining profit or gain and did not have to be seen from the increase in the wealth or property of the defendant significantly or excessively, but simply by increasing it. A small amount of the wealth or property of the defendant or other person or a corporation can be interpreted as profitable, even non-financial facilities.

This consideration is based on the testimony of the witness Drs. Denny Emil Pakpahan as Commissioner of CV. AntorParaja in the activities of procuring laundry machines/equipment, based on the facts of the trial, it was found that the executor was not the owner of the company CV. AntorParaja, but Mrs. Nitra Herawati as the Director of CV. Dempo CV. AntorParaja owned by the witness, got a profit of 1.75% after being deducted by PPN and PPH taxes.

There was a series of work that was not done by the party who signed the contract, in this case the defendant as the Commitment Making Officer did not prevent it, instead it was related to the realization of the payment for the work. Even based on the testimony of the witness TutiSantriani, SKM as the Financial Administration Officer was ordered/ordered by the defendant dr. HidayatM.Kes as the Commitment Making Officer signed the Request for Payment (SPP) and was promised that the defendant would be responsible for all activities and consequences if there was a problem. The panel of judges assessed the payment for the work performed by the defendant without first verifying the results of the work as an act that had the aim of benefiting himself or another person, namely Herawati as the Director of CV. Dempo and the witness Drs. Denny Emil Pakpahan as Commissioner of CV. AntorParaja, so that the judiciary assembly of elements with the aim of benefiting themselves or others or a corporation has been fulfilled.

4.3. Elements of Abusing Authority

Misusing the existing authority, opportunity or means because of the position or position is to use the authority, opportunity or means attached to the position and position held or occupied by the perpetrator of the criminal act of corruption for other purposes than the purpose of granting said authority, opportunity or means (Wiyono, 2005 :38).

In this case, the judge is of the opinion that the defendant has abused his authority or position to gain advantage for himself or for others or for the corporation. The assessment is based on witness testimony and evidence of the Letter of Appointment of Goods and Services Providers (SPPBJ) dated May 7, 2013, that the defendant has the responsibility to supervise the contract that was signed but did not take precautions, instead realizing the payment of work without first verifying the results. In addition, according to the witness, the high price for an examination by the Financial Supervisory Agency had previously been known by the defendant together with the witness and did not follow up on the loss/ payment of state losses so that it was deemed that the defendants' actions jointly violated the law and had met the element of abusing authority. opportunity or means available to him because of position or position, because it is proven to be contrary to:

- 1 Article 3 paragraph (1) of the Law on State Finance which stipulates that state finances are managed in an orderly manner, obeying statutory regulations, are efficient, economical, effective, transparent and accountable with due regard to the sense of justice and appropriateness,
- Article 184 paragraph (2) of the Regulation of the Minister of Home Affairs Number 13 of 2006 concerning Guidelines for Regional Financial Management which has been enhanced by the Regulation of the Minister of Home Affairs Number 59 of 2007, that the Official who signs and/or ratifies documents related to the evidence that becomes the basis for revenue and/or expenditure on the implementation of the APBD is responsible for the correctness of the material and the consequences arising from the use of the said evidence.
- Article 54 of Act Number 1 of 2004 concerning State Treasury, which states that the budget user/power user of the budget is formally and materially responsible to the President/Governor/Mayor for the implementation of budget policies under his control "
- Article 6 letters a, f, g and h Presidential Regulation Number 54 of 2010 concerning Government Procurement of Goods/Services that the parties involved in the implementation of the procurement of goods/services must comply with work ethics.

4.4. Element of Detrimental to State Finances or the Country's Economy

The element of detrimental to state finances means a reduction in state finances. The existence of the word "can" before the phrase that is detrimental to state finances or the state economy indicates that the criminal act of corruption is a formal offense, that is, it is sufficient to fulfill the elements of an act that has been formulated not with the consequence.

The element of detrimental to state finances means a reduction in state finances. The existence of the word can before the phrase that is detrimental to state finances or the state economy indicates that the criminal act of corruption is a formal offense, that is, it is sufficient to fulfill the elements of an act that has been formulated not with the consequence.

According to the General Explanation of the Act Corruption Crime, state finances are all state assets in any form that are separated or not separated, including all parts of state assets and all rights and obligations arising from:

- Is under the control, management and responsibility of State Institution Officials both at the central and regional levels,
- Are under the control, management and responsibility of Officials of State Institutions, State Owned Enterprises/Regionally Owned Enterprises, Foundations, Legal Entities and Companies that include State Capital or companies that include third party capital based on agreements with the state

The state economy is economic life which is structured as a joint effort based on the principle of kinship or community effort independently based on government policies at both the central and regional levels in accordance with the provisions of the prevailing laws and regulations which aim to provide benefits, prosperity and welfare to all people's lives.

In the bidding process which began around April 2013 with an Estimated Own Price (HPS) value of Rp. 1,089,835,703 the defendant as the Commitment Making Officer resulted in a state loss of Rp. 231,072,354,50.- because it is done without any deduction by the discount that has been given from the supplier of the goods.

Based on the statements of witnesses, expert testimony, and evidence that has been confiscated, it is legally obtained that Drs. Denny Emil Pakpahan as Commissioner of CV. AntorParaja as a partner did not carry out the work in accordance with Contract Number 614 / SP.13 / PPK / DINKES-BB / 2013, by transferring the implementation of work to CV. Denpo and the payment was approved by the defendant, resulting in a state loss of Rp. 231,072,354.50.

The truth of the existence of state losses is based on the fact that the BPK RI Audit Result Report on the 2013 Batu Bara Regency Government Financial Report Number 08.C/LHP/XVIII.MDN/05/2014 and there is an agreement between the statements of witnesses, expert statements, witness statements and evidence that has been legally confiscated is connected to the defendant's responsibility, in the form of a return of state loss as a manifestation of the defendant's attitude of admitting and regretting his actions and the defendant is known to have deposited Rp. 116.000.000,- (One hundred and sixteen million rupiahs) at the State Prosecutor's Office of Coal and it has been deposited into a BRI account without interest, the judge assesses that the elements that can harm the state finances or the country's economy have been fulfilled.

4.5. The Element of Doing, Ordering or Participating in Doing It

Elements of Article 55 paragraph (1) of the Criminal Code which determine, are convicted as the maker (*dader*) of a criminal act by those who commit, order to commit or participate in committing it Indonesian Supreme Court Jurisprudence. No.1/1955/M/Pid, dated December 22, 1955, describes the meaning of participation, namely, the accused as a mediator of the crime accused, it can be concluded from an incident which illustrates that the defendant and witnesses worked together consciously and closely to carry out the criminal act he is accused of. As a mediator in a criminal offense charged against the defendant, he did not commit the criminal act himself, and the participant who participated in the criminal act did not have to fulfill all the elements formulated for the crime.

Based on the facts from the trial results, evidence was obtained that the criminal act of corruption in the activities of procuring laundry machines at the Batu Bara District Health Office, by the defendant as the Commitment Making Officer (PPK) did it together with the Commissioner of CV. AntorParaja as partner, who came out as the winner with a bid value of Rp. 1,078,000,000,-. The Committee for the Procurement of Goods and Services issued an Official Report on the Result of the Auction, then the auction results were submitted to the defendant and ordered CV. AntorParaja to make an execution guarantee worth Rp. 53,935,000. Subsequently, a work contract was drawn up between the defendant and

¹ JonwedyBarimbing (deputy director) CV. AntorParaja, but in the implementation the contract was signed by Denny Emil Pakpahan as if the signature was JonwedyBarimbing's signature.

In the Minutes of Work Result Examination No. 1343/BA-HP/DINKES-BB/2013 dated 19 August 2013 and also the Minutes of Activity Progress No. 1344/BAKK/DINKES-BB/2013 dated 19 August 2013 it was stated that the laundry items had been received and inspected by the Recipient Committee for the results of the work and the laundry equipment procurement activities were 100%. However, the Work Results Recipient Committee did not know who assembled the items because the defendant said that this was his duty, apart from that, none of the Minutes was made by the Work Results Recipient Committee because the defendant himself made it while the Work Results Recipient Committee was only ordered to sign the Minutes.

Based on the Minutes of the Application for Payment dated 20 August 2013 signed by JonwedyBarimbing addressed to the defendant a total of Rp. 1,078,700,000, - and based on the Official Report of Payment dated October 2, 2013, a payment was made by the Health Office of Batu Bara Regency in the amount of Rp. 1,078,700,000 whose funds went to CV's account. AntorParaja, based on the Financial Audit Board Result Report Number 8.C/LHP/XVII.MDN/05/2014, it turns out that there is a contract price of Rp. 231,072,354.50.

The inspection result report was received by the Inspectorate of Batu Bara Regency in June 2014 and based on the results of the BPK-RI audit, Rp. 231,072,354.50 must be returned to the Regional Treasury by the defendant and his partner CV. AntorParaja, must be followed up and deposited in the regional treasury of Batu Bara Regency, which is 60 (sixty) days after the report is received by the Regional Government of Batu Bara Regency.

Inspectorate of Batu Bara Regency, in this case, its authority is limited to invoicing to the Regional Officials Work Unit regarding the resolution of the BPK findings either verbally or in writing but not followed up by the Batu Bara Regency Health Office, even though the partners are CV. AntorParaja also received the BPK-RI LHP which was sent to the office address of CV. AntorParaja regarding the difference (contract price allowance) of Rp. 231,072,354.50, however, the settlement has not yet been completed, resulting in state losses

Based on these considerations, the panel of judges was of the opinion that "the element as a person who did, ordered to do or who participated in doing it" has been legally proven. Thus, it is considered that because all elements of the articles charged in the subsider indictment have been fulfilled, the subsidiary charges have been proven, then the defendant must be legally and convincingly proven guilty of committing a criminal act of corruption collectively which causes losses to state finances c.q. North Sumatra Provincial Government and/or Batu Bara Regency Rp. 231,072,354.50 (two hundred thirty-one million seventy-two thousand three hundred and fifty-four rupiah and fifty cents).

5. Conclusion

After discussing the problem, it can be concluded that proving the existence of state losses as the basis for determining the criminal act of corruption in Decision Number 07/Pid.Sus-TPK/2017PN. Mdn is based on the assessment that the defendant is a Commitment Making Officer in Machinery Procurement Activities/Laundry equipment at the Health Office, deliberately did not supervise, in the implementation of the contract it actually realized the payment of work without prior verification of the work results, which according to the Audit Result Report of the State Audit Agency of the Republic of Indonesia (BPK RI) had incurred expenses resulting in a State loss of Rp. 231,072,354.50 (two hundred thirty-one million seventy-two thousand three hundred and fifty-four rupiah and fifty cents).

6. References

- i. Butarbutar, Elisabeth Nurhaini, 2018, Metode Penelitian Hukum, Langkah-Langkah untuk Menemukan Kebenaran dalam Ilmu Hukum, Bandung: PT Refika Aditama, Bandung.
- ii. -----, 2016, Hukum Pembuktian, Analisis terhadap Kemandirian Hakim sebagai Penegak Hukum dalam Proses Pembuktian, Edisi Pertama, Bandung: CV Nuansa Aulia.
- iii. Fajar, M., & Achmad, Y., 2015, Dualisme Penelitian Hukum Normatif dan Empiris, Yogyakarta: Pustaka Pelajar.
- iv. Martiman Prodjohamidjoyo, 2009 Penerapan Pembuktian Terbalik dalam Delik Korupsi, Bandung: CV Mandar Madju.
- v. Mertokusumo, Sudikno. (2013), Hukum Acara Perdata Indonesia, Edisi Revisi, Yogyakarta: Cahaya Atma Pustaka.
- vi. Syamsudin, Azis, 2011, Tindak Pidana Khusus, Jakarta: Sinar Grafika.
- vii. Soekanto, Soerjono., (2012), Pengantar penelitian hukum, Jakarta: UI Press.
- viii. Wiyono, 2005, Pembahasan Undang-Undang Pemberantasan Tindak pidana Korupsi, Jakarta: Sinar Grafika.

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