

## Analysis of Judge's Ruling No. 58/Pid.B/2022/Pn.Kaltara Regarding the Criminal Act of Empliance in Office (Case Study of PT Manaseeh Abadi Sentosa in North Kalimantan)

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**Abstract:** The criminal act of embezzlement in office, known as embezzlement with aggravation, is regulated in Article 374 of the Criminal Code. Article 374 of the Criminal Code states broadly the definition of the criminal act of embezzlement in office, however the criminal act of embezzlement in office itself consists of subjective elements in the form of intentional elements and unlawful elements as well as objective elements in Article 374 of the Criminal Code in the form of acts of possession, elements of objects. crime (an object), partly or wholly belonging to another person and where the object is in his control not because of the crime. The aim of the author in conducting a study in this research is to find out the Public Prosecutor's Indictment regarding the criminal act of embezzlement in office and to find out the Legal Considerations by the Panel of Judges in Imposing Sentences as in one of the criminal cases of embezzlement in office which is in the Decision. The problem approach in this research uses a normative juridical approach. The normative juridical approach is an approach through library research by reading, quoting and analyzing legal theories and statutory regulations related to the problems in the research. The research results include: (1). The judge's decision in case No. 58/Pid.B/2022/PN Kaltara has fulfilled the elements of the crime of embezzlement in office as regulated in Article 374 of the Criminal Code. The perpetrator, who was an employee of PT Manaseeh Abadi Sentosa, was proven to have embezzled company funds for personal gain, which caused financial losses for the company. (2). The findings of this research emphasize the importance of strict internal supervision and periodic audits in preventing criminal acts of embezzlement in office. In addition, there is a need to increase employees' understanding of ethics and law at work through regular training.

**Keywords:** Crime, Embezzlement, Position

### INTRODUCTION

Crimes for corporations places corporations as perpetrators of criminal acts because corporations are the parties who benefit from corporate criminal acts. Crimes against corporations, which are often called employee crimes, are crimes committed by employees or workers against corporations. For example, embezzlement of company funds by officials or employees of the company (Farid & Hasan, 2022).

Crimes against corporations place corporations as victims, meaning that the criminal acts committed are against the corporation or are detrimental to the corporation. Meanwhile, criminal corporations are corporations that are deliberately formed and controlled to commit crimes. The position of a corporation in a criminal corporation is only as a means of committing crimes; as a mask to hide the true face of a crime.

Corporate crime as organized crime is recognized as organized crime and its activities pose a real threat to global stability. As an organized crime, corporate crime is a crime of people who bind themselves together because of the same views that apply hierarchically to achieve a goal by breaking the law (Tedi, Lubis, & Purba, 2022).

Criminal law as a tool or means for resolving problems in the legal field is expected to be able to provide appropriate solutions. Therefore, the development of law and criminal law in particular, needs to be further improved in a focused and integrated manner, including the codification and unification of certain areas of law as well as the drafting of new legislation which is urgently needed to answer all the challenges of the development of criminal acts. Of the various types of criminal acts that occur in society, one of them is the crime of embezzlement (Hartono, et al, 2022).

A criminal event viewed objectively is an action (acting or neglecting to act) that is contrary to positive law and if viewed subjectively from a criminal event, the "mistake aspect" (schuklzide), namely that the consequences are undesirable by law, which is carried out by the perpetrator, can be blamed on him. Criminal acts that are prohibited in Indonesia, along with sanctions, are regulated in the Criminal Code (KUHP), the legal provisions of which are regulated according to the crime committed (Ibrahim, et al, 2023).

Embezzlement is a dishonest act of hiding other people's goods/property by one or more people without the knowledge of the owner of the goods with the aim of transferring ownership (theft), controlling it, or using it for other purposes. The regulations for the criminal act of embezzlement are contained in Article 372 of the Criminal Code, but in this writing the author will discuss the criminal act of embezzlement in office in Article 374 of the Criminal Code. The criminal act of embezzlement in office or known as embezzlement with aggravation is regulated in Article 374 of the Criminal Code: Embezzlement committed by a person whose control over goods is due to an employment relationship or because of a search or because he received wages for it, is punishable by a maximum imprisonment of five years ( Halim, Zarzani, & Aspan, 2021). The employment relationship here is between the employee and the company. An employee or worker is a person or individual who is employed by another person or company and receives wages. The existence of employees is important in running the company. An employee is usually hired to fill a certain position/position in a company, from ordinary staff to directors, all have employee status according to the law (Bagus, Arimbawa, Agung, Laksmi, & Suryani, 2022).

In carrying out the duties and authority given by his position, an employee is required to be responsible for every action he performs for that purpose. The higher a person's position, the greater the duties and responsibilities he carries out, such conditions can increase the intensity of the possibility of work errors in an employee, it is not uncommon for an employee's duties and responsibilities to be used to commit an unlawful act such as embezzlement, theft, fraud and much more (Thezar, 2019).

The background to this research is the act of embezzlement at PT Manasseh Abadi Sentosa in accordance with decision NO 58/Pid.B/2022/PN.Kaltara in the form of embezzlement of receivables, misappropriation, personal use and embezzlement of stock by 3 employees, namely Yuni Rafidah (Admin Sales, Purchasing, Billing), Eko Ari Wardhana (Internal Sales) and Bettharia Noviana (staff) and Yusuf Adi Putra (External Sales).

Disclosure of this incident begins on Monday, November 14 2022 at around 10.00 PT. Manasseh Abadi Sentosa asked Sales for billing details but they were not provided due to customer privacy reasons. Due to the large number of PT customer bills. Manasseh Abadi Sentosa, whose operational head (Mrs. Kamsia K.R.H), is due to collect customer data from admin, internal sales and external sales.

However, none of the customer data, including contact person, address and telephone number, is provided on the grounds that the customer is their market secret. Furthermore, the head of operations (Mrs. Kamsia K.R.H) assigned the Head of the Legal and HRD Bureau (Adv. Antok Yuri W, SH. MH) to collect all customers who were due, but answers to customer data were not provided from October with the deadline for completion until November 2022, due to these suspicions, the Head of the Legal Bureau looked for customers himself in the field and found that several customers had paid into personal accounts in the names of Yuni Rafidah (Sales, Purchasing, Billing Admin), Eko Ari Wardana (Internal Sales), Yusup Adi Putra (External Sales) . Then PT. Manasseh Abadi Sentosa conducted an audit/examination of the company because it was suspected of fraud in customer payments which was not in accordance with PT's SOP (Standard Operational Procedure). Manasseh Abadi Sentosa.

Where is PT. Manasseh Abadi Sentosa found a customer who made payments by sending a sum of money not directly to the company account but using a personal account belonging to PT sales. Manasseh Abadi Sentosa. As for PT. Manasseh Abadi Sentosa found 3 (three) customers who sent money to personal sales accounts, with the source account details being Hadi Prayitno sending a sum of money to Bank Mandiri with No. Account: 7805332107 a.n Yuni Rafidah, source account a.n Hj. Yuliana sent some money to Bank Mandiri with No. Account 9000039703252 and Gem Bank account with No. Account: 0098XXXXXX20 a.n Yusuf Adi. Due to this incident PT. Manasseh Abadi Sentosa suffered an estimated loss of Rp. 1,793,750,718.00,- (One Billion Seven Hundred Ninety Three Million Seven Hundred Fifty Thousand Seven Hundred and Eighteen Rupiah). And report this incident to the police/authorities for further processing.

More specifically, the criminal act of embezzlement in office referred to in this research is a form of continuing act *concurcus* (*voortgezette handeling*), namely a combination of several acts committed by a person, where between one act and another there has never been a judge's decision that has legal force. fixed, so that the perpetrator is subject to a certain method of punishment (Seregig, Ramadan, & Oktavianti, 2022).

Meanwhile, the focus of this research is the reasons why judges consider when deciding cases. Based on the crime of embezzlement, it is a crime regulated in Chapter XXIV of the Criminal Code, Article 372 of the Criminal Code to Article 377 of the Criminal Code, which in essence explains that embezzlement is an act of abuse of trust by someone that was obtained without violating the law.

The criminal act of embezzlement in this position is threatened with imprisonment for a minimum of 1 year and a maximum of 5 years and a fine of at least IDR 50 million and a maximum of IDR 250 million, civil servants or people other than civil servants who are assigned the task of carrying out a public office. continuously or temporarily, deliberately falsifying books or lists specifically for administrative inspection (Kaury, 2020).

Based on the decision, the Public Prosecutor's indictment against the perpetrator of the criminal act of embezzlement in office which was committed as a continuing act in this case consists of alternative charges, namely the first charge, Article 374 of the Criminal Code jo. Article 64 of the Criminal Code (with a maximum penalty of imprisonment of 5 years) and Article 372 of the Criminal Code jo. Article 64 of the Criminal Code (with a maximum prison sentence of 4 years). Therefore, the article applied to impose a crime against the perpetrator is Article 374 of the Criminal Code because the criminal threat is more severe than Article 372 of the Criminal Code.

The Public Prosecutor's demand is that the Panel of Judges impose a prison sentence of 2 (two) years and 6 (six) months, reduced by the time the defendant is in temporary detention and by ordering the defendant to remain in detention. Furthermore, the panel of judges sentenced the defendant to imprisonment for 1 (one) year and 10 (ten) months in prison, reduced by the time the defendant was in temporary detention and with an order the defendant remained in detention.

In Alam & Erlina's research, (2021) stated that the judge's considerations regarding the criminal act of embezzlement in office based on Decision Number: 431/Pid.B/2020/PN.Tjk consisted of juridical considerations, the judge considered that the defendant's actions were legally and convincingly proven to violate Article 374 of the Criminal Code concerning the crime of embezzlement in office. Sociological considerations, the judge considers aggravating and mitigating factors for the defendant as well as the events behind the criminal act. Philosophical considerations, the judge considers that punishment is not only intended to have a deterrent effect on the perpetrator but more importantly is an effort to punish the defendant.

Furthermore, the novelty in this research is that the researcher considers that in deciding the PT Manaseeh Abadi Sentosa case, there is a gap compared to research on similar decision analysis, where a good judge's decision should contain several elements, namely (Handayati & Nata, 2024):

1. The judge's decision is a description of the process of social life as part of social control.
2. The judge's decision is an incarnation of applicable law and is useful for every individual, group or country.
3. The judge's decision is a balance between legal provisions and the reality on the ground.
4. The judge's decision is a picture of ideal awareness between law and social change.
5. The judge's decision must provide benefits to everyone involved in the case.
6. The judge's decision should not create new conflicts for the litigants and the community.

The judge's decision is the product of the trial process in court. Meanwhile, the court is the last place for justice seekers to flee, so the judge's decision should be able to meet the demands of justice seekers. Regarding this matter, judges in deciding cases must reflect three elements, namely justice, legal certainty, expediency (Triyono, Borman, Sidarta, & Handayati, 2024).

It is not easy to find a benchmark for a judge's decision that reflects justice. Because what is fair for one party is not necessarily fair for the other party. In handing down a decision, the judge must comply with existing regulations so that the decision can be in accordance with the justice desired by the community. The winning party can demand or obtain what is their right and the losing party must fulfill their obligations.

The judge's decision reflects legal certainty, of course in the process of resolving the case at trial it has a role to play in finding the right law. Judges in making decisions do not only refer to the law, because it is possible that the law does not regulate it clearly, so judges are required to be able to explore legal values such as customary law and unwritten laws that live in society. In this case the judge is obliged to explore and formulate it in a decision.

The judge's decision is part of the law enforcement process which has one goal, namely legal truth or the realization of legal certainty. The application of the law must be appropriate to the case, so that judges are required to always be able to interpret the meaning of laws and other regulations that are used as the basis for decisions.

The application of the law must be appropriate to the case, so that the judge can construct the case being tried in a complete, wise and objective manner. A judge's decision that reflects expediency is when the judge not only applies the law textually, but the decision can be executed in real terms so as to provide benefits to the interests of the litigants and benefits to society in general (Cornelis, Astutik, & Handayati, 2021).

The decision issued by the judge is a law which must maintain balance in society, so that the public once again has complete trust in law enforcement officials. However, in this case the decision made by the judge was lopsided, especially regarding financial compensation and prison sentences which were deemed disproportionate to the losses caused to the company.

## **THEORETICAL FOUNDATION**

### **1. Juridical Analysis**

According to the Big Indonesian Dictionary (KBBI), analysis comes from the word analysis which means investigation of an event (an essay, action, etc.) to find out the actual situation<sup>13</sup>. According to the legal dictionary, juridical comes from the word *Yuridisch* which means according to law or from a legal perspective. So it can be concluded that juridical analysis is the act of investigating an event to find out the actual situation in terms of or according to the law.

Analysis can also mean processing data, in juridical analysis it can also mean the process of processing data to find out the actual occurrence of a legal event.

### **2. Criminal acts**

According to language, a criminal act in English is called a criminal act or a criminal offense. In Dutch, criminal acts are called *strafbaar feit*, which means actions related to crime. Criminal acts consist of two syllables, namely act and crime. Action can be interpreted as behavior or action. Meanwhile, in English it is called crime and in Dutch it is called *straf*, which is often interpreted as punishment (Rodliyah, 2017).

Criminal acts are formulated in law, including the Criminal Code. For example, article 338 of the Criminal Code stipulates that "whoever intentionally takes the life of another person, is threatened with murder with a maximum imprisonment of fifteen years", which contains the crime of murder, namely the act of taking another person's life, which is carried out intentionally by the perpetrator.

### **3. Embezzlement**

"The criminal act of embezzlement is anyone who intentionally and unlawfully possesses something which wholly or partly belongs to another person, but which is in his control not because of the crime, is threatened with embezzlement, with a maximum imprisonment of four years or a maximum fine of nine hundred rupiah" (Octavia, Azis, & Asri, 2019).

According to R. Soesilo, embezzlement is: "A crime which is almost the same as theft in article 362, the difference is that in the case of theft the item in question is not yet in the thief's hands and must still be "taken" whereas in the case of embezzlement the item is already in his hands. the person who commits an act through a crime" (Suhendar, Yumarni, & Djuniarsono, 2024).

### **4. Position**

Bagir Manan provides a definition of position, according to him a position is a permanent and abstract work environment with certain functions, which as a whole reflects the work of an organization.

The abstract nature of a position requires that officials be given authority and responsibility so that the position can become concrete and its functions can be carried out (Teuku Saiful Bahri Johan, 2018)

## **5. Embezzlement of Office**

The definition of embezzlement in office is stated in the Criminal Code in article 374, namely "embezzlement committed by a person whose control over goods is due to a work relationship or because of a search or because he received wages for it, is punishable by a maximum imprisonment of five years". This crime is an aggravated crime of embezzlement. This means that there are special conditions that cause this criminal act to not be an ordinary embezzlement crime. This special situation is if the criminal act of embezzlement is related to position. The position in question is a position in work but not within the scope of civil servants (PNS)

## **6. Judge's considerations**

Legal consideration is defined as a stage where the panel of judges considers the facts revealed during the trial, starting from the indictment, demands, exceptions of the defendant which are connected to evidence that meets the formal and material requirements, which are presented in the evidence, plea. The legal considerations also include articles from legal regulations that are used as the basis for the decision.

The judge's considerations are one of the most important aspects in determining the realization of the value of a judge's decision which contains justice (*ex aequo et bono*) and contains legal certainty, besides that it also contains benefits for the parties concerned so that the judge's considerations must be addressed carefully, well, , and careful. If the judge's considerations are not thorough, good and careful, then the judge's decision originating from the judge's considerations will be annulled by the High Court/Supreme Court (Thezar, 2019).

## **7. Judge's Decision**

In Article 1 point 11 of the Criminal Procedure Code, it is stated that a court decision is "a judge's statement made in an open court session, which can be in the form of punishment or freedom from all legal charges in and according to the manner regulated in this Law." A judge's decision or court decision is an important and necessary aspect of resolving a criminal case to obtain legal certainty about its status and to be able to prepare for the next steps, such as legal action.

The judge is a member of the Catur Wangsa Law Enforcement in Indonesia. As law enforcers, judges have the main task in the judicial field, namely receiving, examining, deciding and resolving every case submitted to them. With such duties, it can be said that judges are the core implementers who functionally carry out judicial power. Therefore, its existence is very important and determinant in upholding law and justice through its decisions (Safitri & Setyawan, 2020).

## **METHODOLOGY**

The problem approach in this research uses a normative juridical approach. The normative juridical approach is an approach through library research by reading, quoting and analyzing legal theories and statutory regulations related to the problems in the research.

The normative juridical approach is an effort to obtain clarity and understanding of research problems based on interview results, existing realities or case studies. Data collection was carried out using literature studies and field studies. Data analysis was carried out qualitatively (Marwiyah & Handayati, 2021).

## **RESULTS AND DISCUSSION**

### **1. Application of Material and Formal Criminal Law to the Crime of Embezzlement in Position at PT Manaseeh Abadi Sentosa in North Kalimantan**

Embezzlement in office according to the Criminal Code is regulated in Article 374, namely a criminal act committed by a person who controls goods due to employment, search or wages, with a maximum penalty of imprisonment of five years (Ariwibawa Kokoh, 2024). This embezzlement is included in the realm of aggravated crimes, which have certain elements so that the criminal threat is

more severe than ordinary embezzlement (Christia Renata, 2024). Prior to Law 1/2023, perpetrators of embezzlement in office could be sentenced to a maximum of 4 years in prison or a fine of 900 thousand rupiah. However, since Law 1/2023, the threat is a maximum imprisonment of 4 years or a maximum fine of 200 million rupiah (Christia Renata, 2024).

To be categorized as a criminal act of embezzlement in office, there are several elements that must be fulfilled, namely:

- a. Control of goods: The perpetrator must have control of the goods embezzled due to employment, search or wages (Anggalana & Raies, 2024).
- b. Employment Relationship: The perpetrator must have an employment relationship with the embezzled item, such as an employee, worker or official (Theza & Nurjannah, 2020).
- c. Search: The perpetrator must search for embezzled items, such as looking for items that are lost or not found.
- d. Getting paid: The perpetrator must get paid to manage the embezzled goods.
- e. Lack of permission: The perpetrator does not have permission or approval from the authorities to embezzle goods.
- f. Embezzlement with aggravation: Embezzlement is carried out with aggravated elements that increase the threat of criminal punishment.

If all these elements are met, embezzlement in office can be categorized as an aggravated criminal offense with a maximum prison sentence of five years.

#### a. Application of Material Criminal Law

Material criminal law regulates criminal acts and sanctions for perpetrators, as regulated in the Criminal Code. This includes various offenses such as crimes against humanity, property, and body. This law determines the acts that can be punished, the conditions for sentencing, and the criminal provisions. Material criminal law also determines when and in what cases violators can be punished (Izzata Syahidah, 2022). Material criminal law is divided into several types, namely:

- 1) Substance Material Criminal Law: regulates the types of criminal acts
- 2) Formal Material Criminal Law: regulates criminal sanctions imposed on perpetrators of criminal acts
- 3) International Criminal Law: regulates criminal acts that occur within the territorial boundaries of a country and outside the territorial boundaries of a country
- 4) National Criminal Law: regulates criminal acts that occur within the territorial boundaries of a country
- 5) Special Criminal Law: regulates criminal acts that have special characteristics such as corruption crimes, narcotics crimes, and so on.

Material criminal law has the aim of protecting society. If someone is afraid to commit bad deeds for fear of being punished, everyone in society will be peaceful and safe.

Material criminal law regulates criminal acts of embezzlement in position at PT. Manaseeh Abadi Sentosa based on Article 374 of the Criminal Code and Law no. 8 of 1981 concerning the Criminal Procedure Code. The causal factors are work engagement, work relationships, and work culture. The decision analysis considers evidence, witness and expert statements, indictments, and the prosecutor's demands. The judge imposed a sentence based on the first alternative charge, namely Article 374 of the Criminal Code. Judge's Decision No. 58/Pid.B/2022/PN Kaltara shows the application of material criminal law against embezzlement at PT. Manaseeh Abadi Sentosa, taking into account the elements of control of goods, work relations, search and wages.

Embezzlement in office is regulated in Article 374 of the Criminal Code, which includes embezzlement by someone who has control of goods due to employment, search or wages, with the threat of imprisonment of up to five years. This embezzlement is known as aggravated embezzlement because certain elements increase the criminal threat. Article 372 of the Criminal Code is also relevant, regulating embezzlement by people who are trusted to control goods. In the old Criminal Code, embezzlement perpetrators could be sentenced to a maximum of 4 years in prison or a fine of 900 thousand rupiah. Since Law 1/2023, the threat has changed to a maximum prison term of 4 years or a

fine of 200 million rupiah. Article 415 of the Criminal Code regulates embezzlement by public officials, with the threat of imprisonment of 3-15 years and a minimum fine of 150 million rupiah. Embezzlement in office by a public official is also an aggravated crime with the threat of imprisonment of up to five years.

In the embezzlement case at PT Manaseeh Abadi Sentosa, the article applied was Article 374 of the Criminal Code which carries a threat of imprisonment of up to five years. This article contains four elements that must be fulfilled to categorize an act as embezzlement in office:

- 1) Employment/wage relationship: The defendant has an employment relationship or receives wages from PT Manaseeh Abadi Sentosa.
- 2) Control: The defendant controlled the company's money which was the object of embezzlement.
- 3) Company owned: The money controlled belongs to PT Manaseeh Abadi Sentosa.
- 4) Unlawful: Control is carried out unlawfully, not in accordance with company procedures and regulations. Based on the facts of the trial, the defendant worked as Admin for Sales, Purchasing, Billing, Internal Sales, External Sales and Staff at PT. Manaseeh Abadi Sentosa, controls company money amounting to Rp. 1,793,750,718.00 without the knowledge and approval of the directors. The money is used for personal purposes, such as building a house, vacationing, buying a vehicle, paying debts, personal insurance and online gambling.

These facts show that the defendant fulfilled all the elements of the crime of embezzlement in office according to Article 374 of the Criminal Code. In handing down a decision, the judge considers mitigating and aggravating factors. Mitigating factors include no prior criminal record, family support, admission of guilt, and a promise not to reoffend. Aggravating factors include the planning of the action, the large amount of money embezzled, and the financial losses caused to PT. Manaseeh Abadi Sentosa. Based on this analysis, the judge handed down a guilty verdict and sentenced the defendant to prison.

#### b. Application of Formal Criminal Law

Application of formal criminal law to criminal acts of embezzlement in office at PT. Manaseeh Abadi Sentosa in North Kalimantan has several stages, namely the investigation stage, prosecution stage and trial examination stage. In the investigation stage, the criminal act of embezzlement in office at PT. Manaseeh Abadi Sentosa was reported to the authorities, both by the victim (company) and by other parties who knew about the incident.

Investigators conducted an investigation to collect evidence and information about the case and investigators carried out further investigations to investigate the case and identify a suspect. Then proceed to the prosecution stage, the investigator hands over the case files to the Public Prosecutor (JPU). The prosecutor examines the case files to ensure whether the evidence and information collected is sufficient to be used in court. If the evidence and information is sufficient, the prosecutor submits the case files to the court and files an indictment.

After that, proceed to the examination stage at trial. The judge leads the trial examination and listens to testimony from the prosecutor, defendant, witnesses and experts. The prosecutor proved his charges by presenting evidence and witnesses, but the defendant and his legal advisor presented a defense and the judge handed down a verdict after considering all the evidence, witness statements and the defendant's defense.

Evidence submitted in the case of embezzlement in office at PT. Manaseeh Abadi Sentosa in the form of written evidence such as indictments, investigation reports, and other letters related to this case as well as statements from witnesses who are aware of the incident. Another clue is in the form of a recap of the receipt of money into the defendant's personal account which should have gone to the company.

## **2. Analysis of Judge's Decision No. 58/Pid.B/2022/PN. North Kalimantan Against the Crime of Embezzlement in PT. Manaseeh Abadi Sentosa in North Kalimantan**

Embezzlement of receivables, misappropriation, personal use and embezzlement of stock were carried out by four employees of PT. Manaseeh Abadi Sentosa: Yuni Rafidah (Sales Admin), Eko Ari Wardhana (Internal Sales), Bethharia Noviana (Staff), and Yusuf Adi Putra (External Sales). On Monday,

November 14, 2022, at approximately 10:00 AM, PT. Manaseeh Abadi Sentosa requested billing details from Sales, but they were not provided due to customer privacy reasons. The head of operations, Mrs. Kamsia K.R.H, then collected customer data from admin, internal sales and external sales because many bills were overdue.

Customer data such as contacts, addresses and telephone numbers are not provided for market confidentiality reasons. The head of operations, Mrs. Kamsia K.R.H, assigned the Head of the Legal and HRD Bureau (Adv. Antok Yuri W, SH. MH) to bill customers who were due, but the data was still not provided until November 2022. Suspicions arose, and the Head of the Legal Bureau checked the field, finding several The customer has paid into the personal accounts of Yuni Rafidah, Eko Ari Wardhana, and Yusuf Adi Putra. PT. Manaseeh Abadi Sentosa then carried out an audit due to alleged misappropriation of payments that were not in accordance with the company's SOP.

PT. Manaseeh Abadi Sentosa discovered that some customers sent payments to sales' personal accounts, not company accounts. Three customers were identified as sending money to personal accounts: Hadi Prayitno to a Bank Mandiri account in the name of Yuni Rafidah, Hj. Yuliana to Bank Mandiri and Permata Bank accounts in the name of Yusuf Adi. As a result, the company suffered a loss of Rp. 1,793,750,718.00. PT. Manaseeh Abadi Sentosa reported this incident to the police for further processing, which had a negative impact on the company's finances and operations.

Factors causing embezzlement in positions at PT. Manaseeh Abadi Sentosa includes: an inadequate internal monitoring system, the defendant's access to company finances, and greed motivation. As a result, companies experience financial losses and tarnished reputations, employees lose trust, and the public becomes restless and loses trust in the law.

#### 1) Judge's considerations

In the case of embezzlement at PT. Manaseeh Abadi Sentosa, the judge handed down a verdict against Yuni Rafidah, Eko Ari Wardhana, Bettharia Noviana, and Yusuf Adi Putra with evidence of fund transfers to personal accounts, audit reports, and testimony revealing a loss of Rp. 1,793,750,718.00.

The judge took into account the evil intentions of the perpetrator who took advantage of the position and loopholes in the company's financial system, as well as the large impact on the company's financial condition and stakeholder trust. Even though the perpetrator showed remorse and tried to return some of the funds, and had no previous criminal record, the judge still referred to Article 374 of the Criminal Code which stipulates prison sentences for embezzlement in office.

Based on the considerations above, the judge decided that the perpetrator was found guilty of the crime of embezzlement in office. The perpetrator was sentenced to 4 years in prison and was obliged to return the remaining embezzled funds to PT. Manaseeh Abadi Sentosa. The judge's considerations in the embezzlement case at PT. Manaseeh Abadi Sentosa in North Kalimantan covers various aspects, starting from the perpetrator's motives and intentions, the extent of the loss, regret and recovery efforts, to the social impacts caused. The judge's decision is taken by considering all these aspects in order to achieve balanced justice for all parties involved.

#### 2) Decision Analysis

Embezzlement case at PT. Manaseeh Abadi Sentosa was exposed when an internal audit found discrepancies in financial reports, revealing the diversion of funds to employees' personal accounts. The company reported the case, the perpetrators were arrested, and a judge found them guilty. The perpetrator was sentenced to 4 years in prison and was obliged to return the remaining embezzled funds.

Analysis of the judge's decision shows that the perpetrator's evil intention to enrich himself from company funds was taken into account as the main element. Major losses to companies influence decisions, with impacts on finances, operations, and employee morale. The judge also considered the perpetrator's remorse and recovery efforts as mitigating factors, as well as the perpetrator's clean history of criminal record as a consideration of proportionality. Social impacts and damage to company trust are also considered. This decision is in accordance with Article 374 of the Criminal Code and legal principles applicable in Indonesia.

Judge's decision regarding the criminal act of embezzlement in office at PT. Manaseeh Abadi Sentosa considers various important factors including the perpetrator's evil intentions, the magnitude of the loss, regret and recovery efforts, the perpetrator's life history, social impact, and applicable law.



This analysis shows that the decision was made by paying attention to the balance between law enforcement, justice for victims, and rehabilitation of perpetrators. This is important to maintain the integrity of the legal system and public trust in the judicial process.

### 3) Conclusion and Sanctions Imposed

The Court decided to impose sanctions in the form of a prison sentence of 4 years. This punishment takes into account the magnitude of the loss caused and the evil intentions of the perpetrator. The perpetrator is also required to return the remaining embezzled funds to PT. Manaseeh Abadi Sentosa. This return aims to recover losses experienced by the company and is part of restorative justice efforts.

A prison sentence of 4 years is considered proportional considering the magnitude of the losses caused and the evil intentions carried out by the perpetrator. This shows that the court tries to provide a sentence that is commensurate with the severity of the crime. The obligation to return embezzled funds shows the court's efforts to recover the losses suffered by the victim. This is in line with the principle of restorative justice which not only punishes the perpetrator but also seeks to restore the losses that have occurred. Consideration of the offender's remorse and life history indicates that the court also pays attention to the offender's rehabilitation, providing an opportunity to correct future mistakes.

Decisions and sanctions imposed on perpetrators of embezzlement in their positions at PT. Manaseeh Abadi Sentosa reflects the balance between justice, restoration of losses and rehabilitation of perpetrators. Thus, the sanctions given are expected to provide a deterrent effect, recover company losses, and provide opportunities for perpetrators to improve themselves.

## CONCLUSION

This research found that the judge's decision in case No. 58/Pid.B/2022/PN.Kaltara was in accordance with Article 374 of the Criminal Code, with the perpetrator proven to have embezzled company funds for personal gain. The sentence of 4 years in prison and the obligation to return the funds is considered appropriate and proportional, considering the loss of IDR 1,793,750,718 and the abuse of trust. This research emphasizes the importance of internal monitoring and regular audits as well as the need for ethical and legal training for employees.

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