

Review Article

Legal Protection for Vehicle Owners in Lawsuits for Unlawful Acts of Confiscation of State Land: Review of Decision 27/Pdt.G/2019/Pn.Tbk

Handika Ramadhan ^{1,*}, Muhammad Insa Ansari ², Muhammad Adli ³

¹ Master of Law Student, Faculty of Law, Universitas Syiah Kuala, Indonesia; e-mail : Handika.0683@gmail.com

² Lecturer, Faculty of Law, Universitas Syiah Kuala, Indonesia; e-mail : insa.ansari@usk.ac.id

³ Lecturer, Faculty of Law, Universitas Syiah Kuala, Indonesia; e-mail : bawarith@unsyiah.ac.id

* Corresponding Author : Handika Ramadhan

Abstract: This study examines the legal protection of the owner of the means of transportation in cases of unlawful acts (PMH) related to state deprivation, based on the Study of Decision Number 27/Pdt.G/2019/Pn.Tbk. The main focus of this study is to analyze the legal position of the owner of the transportation facilities who are not directly involved in the crime, but suffer losses due to acts of confiscation by the state. The research method used is empirical normative with a case study approach. The results of the study show that the court in the decision did not provide adequate protection for the civil rights of the owner of the means of transport, even though there was no evidence of direct involvement in the crime. This decision indicates the weak legal protection for third parties in good faith and the importance of strengthening the principle of due process of law in the process of confiscation by the state so as not to violate legitimate civil rights. This study recommends the need for a clearer regulation of the mechanism of objection and restoration of rights for parties aggrieved by acts of state deprivation.

Keywords: Legal Protection; Third Parties; Unlawful Acts.

1. Introduction

The development of Indonesia's legal system in facing the challenges of globalization and modernization has created various complexities in law enforcement, especially in terms of protecting the rights of third parties who are not directly involved in a criminal act. One of the crucial aspects that requires special attention is the legal protection of the owners of transportation facilities in the context of lawsuits for Unlawful Acts (PMH) for state deprivation.

In the Indonesian civil law system, the principle of unlawful acts (PMH) as stipulated in Article 1365 of the Civil Code (KUHPer) provides a basis for any individual or legal entity who feels aggrieved to demand compensation from the party considered responsible. However, the dynamics of the law become complex when the state as a sovereign entity is postulated to have committed PMH (Unlawful Acts) against third parties who are not directly involved in a criminal act, as happened in the case of confiscation of assets or means of transportation by law enforcement officials.

Legal protection against third parties in the context of state seizure has a very fundamental dimension in the Indonesian legal system. The principle of *nemo tenetur se ipsum accusare* and the principle of presumption of innocence do not only apply to suspects or defendants, but must also be extended to other parties who have a legitimate legal interest in the confiscated assets (Harahap, 2020). The seizure of assets by the state as part of the criminal justice system often has complex legal implications, especially when the seized assets involve the interests of third parties who are not involved in the criminal act. Phenomena like these are becoming increasingly relevant considering the increasing number of cases involving transportation facilities as objects of confiscation, where there is often a separation or

Received: June 14, 2025

Revised: June 28, 2025

Accepted: July 12, 2025

Published: July 14, 2025

Curr. Ver.: July 14, 2025



Copyright: © 2025 by the authors.

Submitted for possible open

access publication under the

terms and conditions of the

Creative Commons Attribution

(CC BY SA) license

(<https://creativecommons.org/licenses/by-sa/4.0/>)

difference between the perpetrators of criminal acts and the actual owners of the means of transportation (Hamzah, 2018).

In the context of means of transportation, the problem becomes increasingly complex given the special characteristics of the transportation industry where there is often a complicated legal relationship between the owner of the means of transportation, the operator, and the user. Lack of clarity in identifying and protecting the rights of third parties can result in disproportionate losses and violate the principle of distributive justice (Sutedi, 2018).

One of the important cases that emerged was the Tanjung Balai District Court Decision Number 27/Pdt.G/2019/Pn.Tbk, where the legal owner of the carrier ship filed a PMH lawsuit against the state after the ship was confiscated and confiscated in legal proceedings against other parties. In this case, the ship owner claimed that he did not know and was not involved in the criminal acts committed by the ship's charterer, but suffered losses due to confiscation and seizure by state officials. This case highlights a crucial problem related to legal protection for third parties in good faith, especially the owners of transportation facilities. This weak legal construction in providing protection to third parties creates legal uncertainty that can harm the principles of justice and legal certainty which are the main pillars of the state of law. This situation is exacerbated by the lack of harmonization between the provisions of criminal law, civil law, and administrative law in regulating the protection mechanism (Mardjono, 2019).

In Indonesian judicial practice, a fundamental problem that frequently arises is the lack of clarity regarding legal protection mechanisms for third parties who own property rights to confiscated transportation equipment. This raises fundamental questions regarding the limits of state authority in confiscating and seizing assets in criminal proceedings, as well as legal protection mechanisms for owners who are not perpetrators of criminal acts. In practice, legal protection for third parties is often inadequate, especially when law enforcement officials are unable to distinguish between the legitimate ownership of perpetrators and innocent parties. In fact, in the concept of a state based on the rule of law, the principles of due process of law and the non-liability of innocent third parties are fundamental principles in a state based on the rule of law (Jimly Asshiddiqie, 2009).

This study aims to analyze how legal protection is provided to third parties, especially the owners of transportation facilities, in PMH lawsuits against the state related to acts of confiscation. This study takes Decision Number 27/Pdt.G/2019/Pn.Tbk as a case study to examine legal arguments, judges' considerations, and their legal implications for the guarantee of property rights and legal protection for citizens (Ibrahim, 2015). The analysis of this ruling is very relevant in the context of the development of Indonesian legal doctrine, especially in terms of establishing legal precedents that can provide certainty or legality and better protection for third parties in the future. This decision also reflects how Indonesia's judicial system seeks to balance the interests of law enforcement with the protection of human rights and civil rights (Atmosudirdjo, 2019).

2. Research Method

The focus of this research is empirical normative law of a combination of normative and empirical approaches. The prevailing positive legal norms (laws and regulations, doctrines, and court decisions) are examined with a normative approach, while the empirical approach examines how the law is applied and functions in society. Empirical normative legal research is legal research that analyzes the application of positive legal norms in reality or practice in society. This approach combines the study of secondary legal materials with field data through interviews or observations (Soerjono Soekanto, 1986).

3. Results and Discussion

3.1 Analysis of The Legal Status of Third Parties who are not Involved in Criminal acts but whose Property is Confiscated by the State

Analysis of the legal status of third parties who are not involved in criminal acts but whose assets are confiscated by the state is a complex problem that requires an in-depth study of the principles of criminal law and the protection of human rights. In the context of asset confiscation, there are often situations where property belonging to a third party that has no direct involvement in criminal acts is affected by the confiscation and confiscation process carried out by the state. The legal status of third parties whose property is confiscated by the

state must be seen from the perspective of the principle of *presumption of innocence* guaranteed in Article 8 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power.

Third parties who are not involved in criminal acts have legal status as the legal owners of their property, so confiscation without going through fair procedures can violate the constitutional right to ownership guaranteed in Article 28H paragraph (4) of the 1945 Constitution. In the practice of criminal law enforcement, there are often situations where property belonging to third parties who are not involved in criminal acts is also confiscated by the state as part of the execution of court decisions. This raises legal problems, especially related to the protection of property rights guaranteed by the constitution and the principle of *due process of law*. Third parties who feel aggrieved by the deprivation can file legal remedies in the form of *verzet* or third-party resistance (*derden verzet*), as stipulated in Article 195 paragraph (6) and Article 196 of the Criminal Code.

The Supreme Court through its various rulings also emphasized that the confiscation of assets must consider proof of legal ownership and the legal involvement of the party concerned. If it is proven that the third party is the owner in good faith and does not know or is not involved in the crime committed by the main perpetrator, then the seizure of his property can be declared invalid and must be returned. Therefore, it is important for law enforcement officials to thoroughly identify the legal status of the assets to be seized to ensure that the rights of innocent third parties are not violated.

According to Muladi and Barda Nawawi Arief, the confiscation of property in criminal law must consider the principles of proportionality and justice, where the sanctions imposed must not harm the innocent party (Muladi & Arief, 2010). Protection of third parties in good faith is a fundamental principle in a legal system that respects *due process of law*. In law enforcement practice, especially in cases of corruption and money laundering, often confiscated property involves assets that have changed hands to third parties.

Romli Atmasasmita emphasized that the protection of third parties in good faith is an integral part of the fair criminal justice system, where the state should not arbitrarily confiscate property without considering the legal rights of other parties who are not involved in the crime (Atmasasmita, 2011). This is in line with the principle of *the presumption of innocence* which applies not only to the defendant, but also to other parties who have the potential to be affected by the criminal justice process. Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes has regulated a protection mechanism for third parties in good faith, but its implementation in the field still faces various practical and juridical challenges.

3.2 Juridical Construction Regarding Proof of Ownership and Legal Relationship with the Main Actor

In Decision Number 27/Pdt.G/2019/Pn.Tbk, the construction of proof of ownership becomes a complex issue when the confiscated means of transport turn out to be owned by a third party who is not directly involved in the original criminal act. The court must conduct an in-depth analysis of the legal relationship between the owner of the means of transport and the main perpetrator to determine whether there is a relationship that could indicate the owner's involvement in the money laundering scheme or on the contrary, the owner is a victim whose rights must be protected. This creates its own challenges in legal protection for legal owners, as there is a tendency that administrative evidence is not always sufficient to separate criminal and civil liability in cases of confiscation or confiscation by the state (Setiawan, 2018; Sidharta, 2020).

A crucial aspect of this juridical construction is the separation between formal ownership and substantial ownership. Formal ownership, which is proven through official documents such as ownership certificates, purchase invoices, or sale and purchase deeds, does not always reflect actual ownership if there is an indication that the document was made to disguise the origin of the assets resulting from criminal acts. On the contrary, substantial ownership must be seen from the aspect of the source of funds to obtain the means of transport, the transaction history, and the involvement of the owner in activities related to the original criminal act.

The juridical construction regarding the proof of ownership and the legal relationship with the main actor in civil cases, especially in the context of disputes over the ownership of means of transport, refers to the legal principles of proof applicable in Indonesia. Proof of ownership

is usually based on written evidence such as a certificate of title or an authentic deed made before an authorized official, such as a Land Deed Making Officer (PPAT) or a notary, which has formal, material, and binding evidentiary power (Anggita & Putra, 2022). Certificates as proof of ownership have legal force strong, but not absolute evidence so that it can be refuted with other valid evidence (Anggita & Putra, 2022).

Moreover, the legal relationship with the main actor must be juridically proven through valid documents and supporting legal facts, including physical and juridical evidence related to the object of dispute (Situmorang, 2024). In the court decision, the judge will assess the validity of the letter and the legal relationship between the plaintiff and the object of the dispute based on the evidence submitted, as well as consider the principle of legal certainty and the principle of justice (Situmorang, 2024). If there is an unlawful act in the issuance of a certificate or an unauthorized transfer of rights, then the certificate can be canceled and the act can be considered a violation of the law that harms the rightful owner (Situmorang, 2024; Anggita & Putra, 2022).

The legal relationship between the owner of the means of transportation and the main actor can be in the form of a civil relationship, family relationship, business relationship, or other relationship that may affect the court's assessment of the owner's good faith. The juridical construction requires the court to conduct a comprehensive analysis of all aspects of the relationship, including the chronology of the relationship, the intensity of the interaction, and whether or not there is an indication that the owner of the means of transport knew or ought to have known that the means would be used for activities related to the criminal act.

The principle of prudence in the juridical construction of proof of ownership also requires the protection of *bona fide* owners. This is in line with the principles of legal certainty and the protection of property rights guaranteed in the constitution. The court must consider whether the owner of the means of transportation has made reasonable efforts to ensure that the transaction of the acquisition of the means is lawful and not related to a criminal act, and whether the owner has taken adequate preventive measures to avoid misuse of the means in his possession.

This juridical construction must also consider the aspect of proportionality between the act of confiscation and the level of involvement or relationship of the owner with the original criminal act. The seizure of a means of transport as an effort to recover state assets must not harm an innocent party and have no connection with a criminal act, unless it can be proven that the owner has been negligent in carrying out the duty of care or there is a strong indication that the owner knew that the owner knew about the use of the means for illegal activities.

3.3 The Plaintiff's Legal Position and the Judge's Arguments in the Decision

In the civil case Number 27/Pdt.G/2019/PN.Tbk which was examined at the Tanjung Balai Karimun District Court, the plaintiff filed a lawsuit against the defendant on the basis of unlawful acts. The plaintiff postulates that the defendant's actions have harmed him materially or immaterially, and therefore demands compensation and restoration of his rights. In the trial process, the plaintiff submitted evidence and witnesses to support his claim, with the aim of convincing the panel of judges that the defendant had committed an act contrary to the applicable law (sipp.pn-tanjungbalaikarimun.go.id).

The plaintiff in this case argues that he has a legal standing based on real and direct losses arising from the defendant's actions. This is in line with the provisions of Article 1365 of the Civil Code regarding unlawful acts, where every person who commits an unlawful act that causes harm to others, is obliged to compensate for the loss. In this case, the plaintiff can show that there is a causal relationship between the defendant's actions and its impact on the plaintiff's legal interests, both materially and immaterially. Therefore, the plaintiff considers that his argument has met the formal and material requirements to file a lawsuit, as well as being entitled to legal protection and remedy through the judicial process.

The panel of judges in its decision considered all the evidence submitted by both parties. The judge assesses whether the elements of unlawful acts as stipulated in Article 1365 of the Civil Code have been met, namely the existence of unlawful acts, mistakes, losses, and causal relationships between the acts and losses. After assessing the facts and evidence, the judge decides whether the plaintiff's lawsuit can be granted or rejected. This decision shows the importance of strong evidence in civil cases, as well as the role of judges in objectively

assessing each element submitted in a lawsuit. The judge's decision is based on the principles of justice and legal certainty, taking into account all relevant aspects of the case.

4. Conclusions

Based on the analysis of Decision Number 27/Pdt.G/2019/Pn.Tbk, it can be concluded that the legal protection of the owner of transportation facilities in cases of confiscation by the state through the mechanism of lawsuits against unlawful acts (PMH) is still not optimal. In the context of civil law, the actions of state officials who confiscate or confiscate property belonging to citizens without a valid legal basis meet the elements of PMH as stipulated in Article 1365 of the Civil Code (KUHPer), namely the existence of unlawful acts, losses, wrongdoings, and causal relationships between acts and losses.

Normatively, property rights are constitutional rights protected by Article 28H paragraph (4) and Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, and are strengthened in Article 570 of the Civil Code which emphasizes that ownership gives full rights to the use and control of objects. In the event that the state acts as a legal subject that commits the seizure without due process, then the action must be testable through the civil justice mechanism to ensure state accountability. The court's decision in this case shows that although the state has attributive authority in terms of law enforcement, this authority is not absolute. Actions that go beyond the boundaries and are not procedural should be considered as a form of abuse of authority (*detournement de pouvoir*), which in the general principles of good governance (AUPB) is contrary to the principles of legality, legal certainty, and the protection of human rights.

Therefore, it is necessary to strengthen the regulatory framework that strictly regulates the procedures for confiscation and confiscation by the state so as not to cause undue losses to citizens. In addition, the courts must continue to affirm the legal position that the state is also subject to the principle of the rule of law (*rechtsstaat*), where its actions must always be legally testable. This is important to ensure the civil rights of the community and maintain a balance between the public interest and the rights of individuals.

References

- [1] A. Hamzah, Indonesian Criminal Procedure Law. Jakarta: Sinar Grafika, 2008.
- [2] R. Atmasasmita, The Contemporary Criminal Justice System. Jakarta: Kencana Prenada Media Group, 2011.
- [3] S. P. Atmosudirdjo, State Administrative Law and Human Rights Protection. Jakarta: Ghalia Indonesia, 2019.
- [4] E. O. S. Hiariej, Principles of Criminal Law. Yogyakarta: Cahaya Atma Pustaka, 2016.
- [5] A. Hamzah, Principles of Indonesian Criminal Law and Their Application. Jakarta: Rineka Cipta, 2018.
- [6] M. Y. Harahap, Civil Procedure Law on Lawsuits, Trials, Seizures, Proof, and Court Decisions. Jakarta: Sinar Grafika, 2020.
- [7] J. Ibrahim, Normative Law Research Theory and Methodology. Malang: Bayumedia Publishing, 2015.
- [8] J. Asshiddiqie, Introduction to Constitutional Law. Jakarta: Constitution Press, 2019.
- [9] H. Mardjono, Harmonization of Criminal and Civil Law in the Indonesian Judicial System. Bandung: Alumni, 2019.
- [10] Muladi and B. N. Arief, Criminal Theories and Policies. Bandung: Alumni, 2010.
- [11] H. S. Salim and N. Nurbani, Application of Legal Theory to Thesis and Dissertation Research. Jakarta: Rajawali Press, 2013.
- [12] R. Setiawan, Law of Proof in Civil Cases. Jakarta: Sinar Grafika, 2018.
- [13] B. A. Sidharta, Legal Study on Ownership Protection of Transportation Facilities in Criminal Cases. Bandung: Refika Aditama, 2020.
- [14] S. Soekanto, Introduction to Legal Research. Jakarta: UI Press, 1986.
- [15] S. Soekanto and S. Mamudji, Normative Law Research: A Brief Overview. Jakarta: RajaGrafindo Persada, 2006.
- [16] Sweat, Law and Criminal Law. Bandung: Alumni, 1983.
- [17] A. Sutedi, Transportation Law and Consumer Protection. Jakarta: Achieve Asa, 2018.