Corporate Responsibility For The Crime Of Money Laundering

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Abstract

Legal subjects who commit money laundering crimes consist of legal persons (natuurlijk persoon) and legal entities (recht persoon). The rules regarding the form of accountability for the two legal subjects have been regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (hereinafter referred to as the Money Laundering Law). The purpose of this article is to find out about the regulation of accountability for corruption based on the Money Laundering Law and its implementation in the case of Beringin Bangun Utama Limited Company. This study uses a case approach and a statute approach. The results of the research outlined in this article are the implementation of corporate responsibility in money laundering cases using identification theory, which states that in imposing criminal liability on corporations, law enforcers must be able to show that the perpetrator (actus reus) is an individual legal subject, which is the controller of the corporation. Meanwhile, the element of error (mens rea) in identification theory can be determined if the crime is committed to provide benefits for the subject of corporate law.

Keywords: Criminal Liability, Corporate, Money Laundering.

Ringkasan

Subjek hukum yang melakukan tindak pidana pencucian uang terdiri dari subjek hukum orang (natuurlijk persoon) dan juga badan hukum (recht persoon). Aturan mengenai bentuk pertanggungjawaban kedua subjek hukum tersebut telah diatur di dalam Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang (untuk selanjutnya disebut money laundering law) Pertanggungjawaban korporasi pelaku tindak pidana pencucian uang, di dalam praktik baru sekali saja diterapkan dalam kasus Beringin Bangun Utama Limited Company. Penulisan artikel ini bertujuan untuk mengetahui mengenai regulasi pertanggungjawaban korupsi berdasarkan UU TPPU dan implementasinya dalam kasus Beringin Bangun Utama Limited Company. Penelitian ini menggunakan pendekatan kasus (case approach) dan pendekatan perundang-undangan (statute approach). Hasil penelitian yang dituangkan di dalam artikel ini adalah implementasi pertanggungjawaban korporasi pada kasus pencucian uang menggunakan teori identifikasi (identification theory), yang menyatakan bahwa dalam pembebanan pertanggungjawaban pidana terhadap korporasi, penegak hukum harus dapat menunjukkan bahwa yang melakukan (actus reus) adalah subjek hukum perseorangan yang merupakan pengendali korporasi. Sedangkan unsur kesalahan (mens rea) dalam teori identifikasi dapat ditentukan jika tindak pidana tersebut dilakukan untuk memberikan kemanfaatan bagi subjek hukum korporasi.

I. Introduction

The legal subject who became the perpetrator of a crime in the original criminal law was only an individual (natuurlijk person). While corporations are not known as legal subjects in criminal law. The next development of criminal law, especially in criminal acts outside the Criminal Code, then regulates corporations (rechtspersoon) as subjects who can become perpetrators of criminal acts. The existence of the concept of corporate criminal responsibility is motivated by the increase in criminal acts committed by corporations through corporate controlling personnel and causing losses to the community.

The existence of corporations as legal subjects has a significant role in supporting economic activities and national development. Corporate activities support the government to meet the needs of the people in a country. However, on the other hand, corporations often commit various criminal acts known as corporate crimes that are detrimental to the country's economy and the wider community. Activities carried out by corporations in facing competition with other corporations are always faced with very tight and dynamic competition. These competitions are related to the use of increasingly sophisticated new technologies, marketing techniques, and massive market expansion. This condition often triggers corporations to carry out acts that are contrary to the law such as imitating, falsifying, stealing, bribing, and collaborating on prices or marketing areas. In short, because of the compulsion of competition, corporations can and often do commit criminal acts in order to achieve their goals.

Corporations that carry out all legal actions with all assets arising from such actions must be considered as the assets of the entity, regardless of the individuals who are gathered in it. Determination of corporate error is done by looking at whether the management, acting for and on behalf of the corporation, has an error. If the answer is yes, then the corporation is found guilty of the crime it has committed. Vice versa.

The definition of wrongdoing in the corporation must be seen from the reproach of certain actions, because the corporation has the possibility in certain situations to act differently (alternative actions) while the alternative actions can reasonably be expected to be carried out by the corporation, but the act is not carried out, so that the corporation is in that situation. can be blamed and presumed guilty.

Crimes committed by corporations (corporate crime) must be distinguished from other crimes in general because this criminal behavior is included as a "white collar crime". Prosecution and criminal prosecution against corporations is very necessary considering the losses caused by this corporate crime are very large.

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8 Ibid, p. 73.
Since the enactment of the Money Laundering Law, until now the implementation of the imposition of criminal sanctions on cases of money laundering committed by corporations has only been implemented once. The application of punishment to corporations as a subject of criminal law in money laundering, for the first time in Indonesia was applied in the case of a Beringin Bangun Utama Limited Company. The writing of this article will focus on the study of the criminal mechanism against corporations in the crime of money laundering, and how to implement these provisions in handling Beringin Bangun Utama Limited Company cases.

II. Problem Formulation
1. What are the regulations regarding the mechanism for criminalizing corporations in money laundering crimes?
2. How is the implementation of the provisions of the Money Laundering Law in handling the case of Beringin Bangun Utama Limited Company?

III. Research Method
This article was written using a normative legal research method. The approach used in discussing the problems in this paper is a statutory approach and a case approach. The statutory approach is taken in tracing the ratio of the legislature to the formation of laws and regulations. The study uses the laws and regulations related to money laundering as a basis for knowing the regulation of corporate criminal liability in the Money Laundering Act. The case approach is used to find the ratio decidendi or reasoning, namely the judge's consideration to arrive at a verdict, where there is a legal breakthrough that aims to provide access to justice.

This case approach is used to analyze the application of corporate criminal liability as regulated in the money laundering law, which can be implemented in cases of money laundering. The conceptual approach is used to understand precisely and accurately the various concepts used by legal principles in laws and the doctrines of legal experts. The legal materials used in this research are primary legal materials in the form of statutory regulations and court decisions as well as secondary legal materials in the form of literature and research results.

IV. Discussion
1. Regulation of Corporate Liability in the Crime of Money Laundering in the Money Laundering Law

The preamble considering Law Number 8 of 2010 concerning the Prevention and Eradication of the Criminal Acts of Money Laundering has emphasized that the crime of money laundering not only threatens economic stability and the integrity of the financial system, but can also endanger the joints of life in society, nation and state.
In principle, money laundering is an act of disguising or hiding the origin of the funds obtained or the proceeds of a crime. Predicate crimes known as predicate crimes are criminal acts that initiate the emergence of money laundering, which is then followed by subsequent actions in the form of disguising the origin of the funds.\(^{14}\)

In general, the series of acts of the crime of money laundering consist of:\(^{15}\)

a. **Placement**, an effort to place funds generated from a criminal activity into the financial system.

b. **Layering** is an effort to separate the proceeds of a crime from its source, namely the crime through several stages of financial transactions to hide or disguise the origin of assets.

c. **Integration**, an effort to use assets that appear to be legitimate, either to be enjoyed directly, to be invested in various forms of material or financial wealth, to be used to finance legitimate business activities, or to refinance criminal acts.

Corporate criminal liability in the Money Laundering Law stipulates that criminal liability may be imposed only for individuals but also for corporations, both legal entities and non-legal entities. A corporation is a business entity whose existence and legal status are the same as humans (people), regardless of the form of organization. Corporations can own assets and debts, have obligations and rights and can act according to the law, file lawsuits and can be sued in court. This confirms that corporations can be held responsible if they commit a crime.\(^{16}\)

In addition, corporations can also be a place to hide assets resulting from criminal acts that are not touched by the legal process in criminal liability.\(^{17}\) Misuse of legitimate companies to hide and disguise the results of criminal acts or (misuse legitimate business) is also often done by criminals.\(^{18}\)

Furthermore, liability for corporations that commit money laundering offenses as regulated in Article 3, Article 4, and Article 5 of the Money Laundering Law is imposed on corporations if the crime of money laundering:

a. carried out or ordered by the corporation’s Controlling Personnel;

b. carried out in the context of fulfilling the purposes and objectives of the corporation;

c. carried out in accordance with the duties and functions of the perpetrator or the giver of orders; and

d. carried out with the intention of providing benefits to the corporation.

The person controlling the corporation is intended to be any person who has the power or authority to determine corporate policy or has the authority to carry out the corporate policy without having to obtain authorization from his superiors.\(^{19}\) The sanctions


\(^{18}\) Ibid, p. 336.

\(^{19}\) Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, (State Gazette of the Republic of Indonesia of 2010 No. 122, Supplement to the State Gazette Number 5164).

\(^{20}\) Ferna Lukmia Sutra, Loc.Cit.
imposed for corporations as perpetrators of money laundering offenses are in the form of basic and additional penalties. The main punishment is in the form of a fine with a maximum amount of Rp. 100,000,000,000.00 (one hundred billion rupiahs), while the additional punishment is in the form of:

a. announcement of judge's verdict;
b. freezing of part or all of the corporate business activities;
c. revocation of business license;
d. dissolution and/or prohibition of the corporation;
e. confiscation of corporate assets for the state; and/or
f. corporate takeovers by the state.

However, if the corporation is unable to pay the criminal fine in the principal crime, the criminal fine can be replaced with the confiscation of assets belonging to the corporation or the controlling personnel of the corporation whose value is the same as the sentence for the fine imposed. In the event that the sale of the confiscated corporate assets is insufficient, imprisonment in lieu of a fine is imposed on the controlling personnel of the corporation taking into account the fines already paid.

2. Implementation of Corporate Responsibility in the Crime of Money Laundering in the Case of the Beringin Bangun Utama Limited Company

Based on theoretical studies, criminal law has several models of corporate criminal liability as follows:

a. it is the corporate management as the maker and the management who are responsible;
b. corporation as maker and responsible manager;
c. corporation as a maker and also as a responsible person.

Doctrines used as the basis for justifying the imposition of criminal responsibility on corporations include the following:

a. absolute liability (strict liability);
b. vicarious liability (doctrine of vicarious liability);
c. delegation (doctrine of delegation);
d. identification (doctrine of identification);
e. aggregation (doctrine of aggregation).

Based on some of these theories or doctrines, this paper will discuss the concept of the doctrine of identification related to corporate responsibility and the application of identification theory in the crime of money laundering in the case of Beringin Bangun Utama Limited Company.

The doctrine of identification is a doctrine that teaches that in order to impose criminal responsibility on corporations, the public prosecutor must be able to identify that those who carry out actus reus are the controlling personnel (directing mind or controlling mind) of the corporation. What is meant by corporate controlling personnel are members of the management or directors who are authorized to act for and on behalf of the

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21 Ibid.
23 Ibid, hlm. 174-175.
corporation. The approach taken by this doctrine of identification is to apply vicarious responsibility to the corporation for the actions of the corporate controlling personnel.  

Identification theory teaches that the actions of people, both management and members of the corporation within the scope of their authority, are actually acts of the corporation, unless that person commits an act that results in a criminal act in his personal capacity, then it is not a corporate act. In line with the opinion expressed by Muladi, as quoted in the article La Ode Abdul Razak and Oheo K Haris, the doctrine of identification of a company can commit a number of offenses directly through people who are very closely related to the company.

The method of determining the controlling personnel of the corporation can be seen not only in a formal juridical manner but also according to the reality in the operationalization of the company's activities on a case by case basis. Viewed in a formal juridical manner, the controlling personnel of the corporation (directing mind) can be identified from the articles of association of the corporation, the management's decision letter containing the appointment of officials or managers to fill certain positions (for example, to become the head of a branch office or division head of the corporation concerned) and grants the authority to carry out the duties and obligations related to the position.

However, it often happens that administrators who are formally juridical have the authority to independently determine policies and take decisions to act, but in fact or factually they are under the influence of very strong control from people who do not have formal juridical authority. Certain people even though according to the articles of association of the corporation do not have the authority to take management actions of a company, but in fact they are the ones who control people who are formally juridical as management of the company, for example the majority shareholders or commissioners of the company who are closely related to the company. controlling shareholders. According to Litte and Savoline as quoted by Sutan Remi Sjahdeini in corporate responsibility through identification teachings, public prosecutors must be able to show:

a. the actions of the personnel who are the controlling personnel of the corporation are included in the field of activity (operations) assigned to them (intra vires);
b. the crime is not a fraud against the corporation (harming the corporation);
c. the criminal act is intended to provide benefits to the corporation; and
d. the criminal act is an act that falls within the scope of the purposes and objectives of the corporation (intra vires), not ultra vires as specified in the articles of association of the corporation.

In contrast to criminal acts committed by corporate management on their own behalf without representing the corporation, where the responsibility is only borne by the corporate management if the actions are carried out by ordinary corporate management who are not the controlling personnel of the corporation; the act does not benefit the corporation but only benefits the individual; the act is contrary to the aims and objectives of

24 Ibid, hlm. 174-175.
27 Ibid.
the corporation; and the actions of the management deviate from their functions and duties in a corporation.\textsuperscript{28}

The application of identification theory in the money laundering case that will be analyzed in this paper is in the case of the Beringin Bangun Utama Limited Liability Company, namely in 2014, the Ministry of Public Works, Director General of Natural Resources SNVT (Specific Non-Vertical Work Units) - PJSA (Implementation of Water Resources Network) Sumatra VII Bengkulu Province has a budget of Rp. 10,000,000,000,- (Ten Billion Rupiah) for the Bengkulu Air Flood Control work in Bengkulu City. In the Bengkulu Water Flood Control Development Project, Beringin Bangun Utama Limited Company was appointed as the implementing contractor based on the Agreement Letter Number: HK 02 03/SPHS/PPK-SNI/SNVT-PJSAI20/2014 dated April 1, 2014.

As for the President Director of Beringin Bangun Utama Limited Company is Christopher O Dewabrata based on Deed Number: 30 dated March 13, 2012 concerning Minutes of the General Meeting of Shareholders of PT. Banyan Build Main. In the Minutes there is a change in the articles of association and the composition of the management, namely there has been a transfer of shares of Beringin Bangun Utama Limited Company from the old shareholders, namely Fahd El Fouz, holder of 220 shares (according to the Deed of Power of Attorney No. 183 dated April 15, 2011), Dendy Prasetya Zulkamaen Putra, holder of 220 shares (according to the Deed of Power of Attorney No. 185 dated April 15, 2011) which sold to Rudyanto Nithbardjo and Agus Sugianto holders of 220 shares (according to the Deed of Power of Attorney No. 187 dated April 15, 2011) which were sold to Mrs. Indrawaty Surjaningsih Rahardjo who is the parent of Christopher O Dewabrata. The composition of the board of directors was later changed to:

\begin{itemize}
  \item a. Managing Director: Christopher O Dewabrata
  \item b. Director: Rudyanto Nithbardjo
  \item c. Commissioner: Mrs. Indrawaty Surjaningsih Rahardjo
\end{itemize}

The offer price of Beringin Bangun Utama Limited Company which was later agreed by the Ministry of Public Works was Rp. 9,026,160,000,- (Nine billion twenty six million six hundred sixteen thousand two hundred rupiah) based on the Bengkulu Water Flood Control Development Work contract: HK 02/03/SPHS/PPK-SP-II/SNVT-PJSAI20/2014 April 01, 2014 which was signed by Sofyan Uyub as PPK with the President Director of Beringin Bangun Utama Limited Company, namely Christopher O Dewabrata as the Implementing Contractor. The implementation period is 240 (two hundred and forty) calendar days starting from 01 April 2014 to 01 December 2014.

Several documents submitted by Beringin Bangun Utama Limited Company at the time of the bid submission, the facts in the trial were declared to be incorrect or false, namely a letter of support for equipment from PT Jati Luhur and a list of personnel, SKA and SKT (Purwo Budijono) personnel, which turned out to be false. In carrying out the construction work of Bengkulu Water Flood control, Bengkulu City has experienced a time delay and has even experienced a deviation due to the lack of compatibility between the physical realization and the plan. Show Course Meeting I was held after a deviation of more than 25.684% and Show Course Meeting II was held after a deviation of 27.15%.

At the time the contract expired as of December 31, 2014 there were several works in the construction of Bengkulu City Flood Control which had not been completed by

\textsuperscript{28} Aulia Andika, Pertanggungjawaban Pidana Korporasi Pada Tindak Pidana Pencucian Uang, (Penerbit Fakultas Hukum Universitas Indonesia, Depok: 2020), 150.
PT. Banyan Build Main. Based on the Audit Result Report by the Financial and Development Supervisory Agency of Bengkulu Province (BPKP Bengkulu) the total financial loss of the State in the Bengkulu City Flood Control Development of Bengkulu City for Fiscal Year 2014 is Rp. 3,760,170,883.36 (three billion seven hundred sixty million one hundred seventy thousand eight hundred eighty three point thirty six rupiahs).

Furthermore, the payment received by Beringin Bangun Utama Limited Company which entered the account number 0011248063 belonging to the defendant PT. Banyan Bangun Utama at PT. The Regional Development Bank of East Java, Tbk (PT. BPD Jatim), then made several RTGS debit mutations to several destination accounts.

Based on the case of the position above which is associated with corporate liability for money laundering cases as stipulated in Article 6 paragraph (2), the penalty is imposed on the corporation if the crime of money laundering is:

a. The act was carried out by the controlling personnel of the corporation

According to Sutan Remy Sjahdeini, in interpreting the element "performed or ordered by the controlling personnel of the corporation" is that the crime (either in the form of a commission or omission) is committed or ordered or authorized by corporate personnel who within the corporate organizational structure have the authority to control or commit acts. For and on behalf of the corporation. Such personnel are called the controlling personnel (directing mind or controlling mind) of the corporation. 29

1) Corporate Management, namely those who according to their articles of association formally carry out corporate management, and/or
2) Those who even though according to the articles of association of the corporation are not administrators, but officially have the authority to carry out acts that are legally binding on the corporation based on:
   a) Appointment by corporate management to hold a position by granting the authority to make their own decisions within the scope of duties and obligations attached to the position to legally bind the corporation; or
   b) Delegation of authority or granting power of attorney by the management of the corporation or by them to be able to carry out actions that are legally binding on the corporation.

According to Sutan Remy Sjahdeini, the elements stated above are the teachings of Identification (Identification Doctrine). In line with the above thought, the Supreme Court of Canada Canadian Dredge and Dock v The Queen, [1985] 1SCR 662, (Supreme Court of Canada), stipulates three normative conditions which are conditions for the application of identification theory, namely that the act is indeed part of the job. or authority, is not a fraudulent act against the company, and is carried out with the aim of providing benefits to the company. Therefore, the determination of the directing mind is very dependent on the position of a person in a company that is considered to represent the corporation. 30

Thus, in identification theory, criminal liability imposed on corporations must pay close attention to who is really the brain or holder of corporate operational control, who is authorized to issue policies and make decisions on behalf of the corporation.

29 Pengadilan Tindak Pidana Korupsi, Putusan Nomor 64/Pid.Sus/TPK/2016/PN.Bgl, hlm. 234.
In line with the teaching of identification, in the facts of the trial, information was obtained:

1) The position of Beringin Bangun Utama Limited Company is a corporation that was established based on the Deed of Establishment of a Limited Liability Company Number: 181 dated April 15, 2011. Beringin Bangun Utama Limited Company was approved by the Minister of Law and Human Rights as a legal entity based on the Decree of the Minister of Law and Human Rights R.1. Number: AHU 23060.AHA01.01 of 2011 dated 06 May 2011.

2) The position of Cristopher O Dewabrata at Beringin Bangun Utama Limited Company is the President Director of Beringin Bangun Utama Limited Company based on Deed Number: 30 dated March 13, 2012 concerning Minutes of the General Meeting of Shareholders of Beringin Bangun Utama Limited Company which has the authority to control or carry out actions for and on behalf of the corporation and to determine company policies.

3) Cristopher O Dewabrata is a controlling personnel where he can control or perform acts for and on behalf of the defendant Beringin Bangun Utama Limited Company as a corporation (directing mind or controlling mind).

4) The Accused Beringin Bangun Utama Limited Company through its controlling personnel, Cristopher O Dewabrata as the President Director, consciously and deliberately participated in the auction process and was determined as the winner in the Bengkulu City Flood Control project for Bengkulu City FY 2014. Subsequently, the signing of the Work Agreement (Contract) for the Bengkulu City of Bengkulu City Flood Control for the 2014 FY 2014 Number: HK 02. 03/SPHS/PPK SP.IISNV-T-PJSAI20/2014 on April 1, 2014 signed by Sofyan Uyub as the official Commitment Maker (PPK) and the Defendant Beringin Bangun Utama Limited Company through its management, Christopher O Dewabrata. 2014 with a contract value of Rp. 9,026,616,200,- (Nine billion twenty six million six hundred sixty thousand two hundred rupiah) with an implementation period of 240 (two hundred and forty) calendar days from April 1, 2014 to December 1, 2014.

b. Actions are carried out in order to achieve the goals of the corporation and give advantage for corporation

According to R. Wiyono, in his book "Discussion of the Law on the Prevention and Eradication of the Crime of Money Laundering" for Corporations in the form of legal entities, the purposes and objectives of the Corporation can be known from the Articles of Association of the Corporation.31 Based on the identification doctrine, the actions of the controlling management (directing mind or controlling mind) of the corporation are actions that fall within the scope of the corporation's goals and objectives (intra vires), not ultra vires (excluding the scope of the corporation's goals and objectives) as specified in the corporation's articles of association. Thus, if the activity is an intra vires activity, then the actions of the management can be charged with accountability to the corporation. Meanwhile, if the crime committed by the controlling personnel of the corporation or ordered by the personnel controlling the corporation to be carried out by another person is an ultra vires act, the corporation concerned cannot be held criminally responsible.

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31 Pengadilan Tindak Pidana Korupsi, Putusan No. 64/Pid.Sus/TPK/2016/PN.Bgl, hlm. 237.
Based on the facts of the trial, information was obtained that the actions of the President Director Christopher O Dewabrata as the controlling personnel of the Defendant Beringin Bangun Utama Limited Company, which has participated in the Bengkulu Air Bengkulu City Flood Control work auction for the 2014 fiscal year, is determined as the winner until the implementation process is carried out in order to fulfill the aims and objectives of the establishment of Beringin Bangun Utama Limited Company, so that the corporation continues to operate and earn profits and dividends as well as corporate capital, as stated in the Deed of Establishment of a Limited Liability Company Number: 181 dated April 15, 2011. In addition, the business run by Beringin Bangun Utama Limited Company is also engaged in trading, construction, real estate, industry, printing, agribusiness, services and transportation, as referred to in Article 3 paragraph (1) Deed of Establishment of the Company Number: 29 dated March 6, 2007.

However, the aims and objectives of the establishment of Beringin Bangun Utama Limited Company was misused by the Defendant Beringin Bangun Utama Limited Company through its controlling personnel Christopher O Dewabrata by carrying out the Bengkulu City Bengkulu Flood Control work not in accordance with the contract, resulting in a shortage of work volume as indicated by the results of the inspection by Technical Expert Syamsul Bahri from Bengkulu University.

According to Sutan Remy Sjahdeini, this crime was committed by the perpetrator by providing benefits to the corporation. These benefits do not have to be in the form of financial income (revenue), but can also provide non-financial benefits. These benefits can be in the form of providing financial or non-financial benefits or can avoid or reduce financial and non-financial losses / for the corporation. It is considered that there has been an intention to obtain benefits to the corporation if costs have been incurred at the expense of the corporation to obtain these benefits. With the expenses incurred at the expense of the corporation, it means that there has been a malicious intention or an attitude of guilt (mens rea) from the perpetrator to obtain benefits for the corporation.32

Based on the facts of the trial, the act of spending, paying, or other actions of Assets that he knows or reasonably suspects are the results of a criminal act of Corruption with the aim of hiding or disguising the origin of the Assets as referred to in Article 3 of the Money Laundering Law on money obtained by the Defendant PT. Beringin Bangun Utama from the implementation of Bengkulu Air Flood Control in Bengkulu City for the 2014 year based on a work contract (Contract) signed by Sofyan Uyub as PPK (Party I) and the accused Beringin Bangun Utama Limited Company through its management Cristopher O Dewabrata as President Director with a contract value of Rp 9,026,616,200,- (Nine billion twenty six million six hundred sixteen thousand two hundred rupiah), which was carried out by the defendant Beringin Bangun Utama Limited Company through its controlling personnel Christopher O Dewabrata is intended to provide benefits to the Defendant Beringin Bangun Utama Limited Company both financial benefits in the form of profits and dividends as well as payments to parties as transactions that have been carried out through account number: 0019000249 owned East Java BPO Limited Company to be sent to the

destination bank with Bank Indonesia’s RTGS process as well as non-financial benefits in the form of increasing the company’s basic capabilities.

c. The act carried out by the perpetrator is in accordance with what was ordered by the giver of the order

According to Sutan Remy Sjahdeini, criminal acts committed by the corporate controlling mind or controlling mind are within the framework of their authority and duties. constitutes a legal act within the limits of the management's authority in his/her position in the corporation as stipulated in the Articles of Association or the Letter of Appointment. In such a case, the controlling management does not commit acts that are ultra vires (beyond powers).\textsuperscript{33}

Based on the facts of the trial, information was obtained that the act of spending, paying, or other actions of Assets which he knew or reasonably suspected was the result of a criminal act of Corruption with the aim of hiding or disguising the origin of the Assets as referred to in Article 3 of the Money Laundering Law for the money obtained by the accused Beringin Bangun Utama Limited Company from the implementation of Bengkulu City Bengkulu City Flood Control for the 2014 FY based on the Work Contract (Contract) for the Bengkulu City Bengkulu City 2014 Flood Control Work contract amounting to IDR 9,026,616,200.00 (nine billion twenty six million six hundred sixteen thousand two hundred rupiah) committed by the accused Beringin Bangun Utama Limited Company through its controlling personnel Christopher O Dewabrata is in order to carry out the duties and functions of the actors as the main director who has the task of continuing limited partnership businesses in the fields of trade, development, real estate, industry, printing, agribusiness, services and transportation, as referred to in Article 3 paragraph (1) Deed of Establishment of a Limited Liability Company Number: 181 dated April 15, 2011, as well as seeking profits and dividends.\textsuperscript{34}

V. Conclusion

Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering has regulated the criminal liability of corporations, both legal entities and non-legal entities. Corporate criminal liability in money laundering offenses cases uses the doctrine of identification. In the doctrine of identification, in order to impose criminal responsibility on corporations, law enforcers must be able to identify that those who carry out actus reus are the personnel controlling the corporation (directing mind or controlling mind).

In the case of Beringin Bangun Utama Limited Company, Cristopher O Dewantara as the President Director has the authority to control or carry out actions for and on behalf of the corporation. Actus reus by Cristopher O Dewabrata is actus reus by the accused Beringin Bangun Utama Limited Company.

Furthermore, the evil intentions or the attitude of the heart of guilt (mens rea) in the teaching of identification can be determined from the director or manager which can be considered as the inner attitude and desire of the corporation, because the director or manager is the directing mind of the corporation. If the crime committed by

\textsuperscript{33} Ibid, hlm. 241.

\textsuperscript{34} Ibid.
the directing mind is carried out in the context of providing benefits to the corporation, the act of the directing mind is considered a corporate act.

VI. Bibliography


Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, (State Gazette of the Republic of Indonesia of 2010 No. 122, Supplement to the State Gazette Number 5164).


Pengadilan Tindak Pidana Korupsi, Putusan No. 64/Pid.Sus/TPK/2016/PN.Bgl.

Peraturan Mahkamah Agung Nomor 13 Tahun 2016 tentang Tata Cara Penanganan Perkara Tindak Pidana Oleh Korporasi

Peter Mahmud Marzuki, Penelitian Hukum, (Kencana: Jakarta, 2013).


Sulistyowati Irianto and Shidarta, Metode Penelitian (Konstelasi dan Refleksi), (Yayasan Pustaka Obor Indonesia: Jakarta, 2011).