

Analysis of Legal Remedies Against Judges Decisions Regarding Evidence Owned by Good Faith Third Parties in Corruption Cases

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Abstract

The form of legal protection for third parties for evidence declared forfeited to the state is in the form of being able to submit an Objection Request to the Court that decided the corruption crime case as the main case and as a condition for third parties to obtain legal protection in the form of filing an objection request is that it must be based on good faith, namely the Third Party where the evidence is really his property that does not originate or has nothing to do with the criminal act of corruption committed by the Defendant. On the decision of the Objection Petition handed down by the Court against the Objection Petition, there is only a legal remedy of Cassation that can be filed by the Third Party as the Objection Petitioner and the Public Prosecutor as the Objection Respondent and the Cassation legal remedy can only be filed once and there is also no legal remedy of Reconsideration allowed. In the arrangement, there is no balance between the state's right to recover state financial losses that can be carried out by the Public Prosecutor and the Third Party in good faith for the return of his property, where the Public Prosecutor is provided with legal remedies in the form of being able to file a civil lawsuit through the State Attorney based on Article 32 of Law Number. 31 of 1999 concerning the Eradication of Corruption, in an effort to optimize the recovery of state financial losses. On the other hand, third parties are not provided with legal remedies if the objection filed by them on their evidence confiscated for the state in corruption crimes if the objection filed at the cassation level is rejected. The results of this study aim to provide legal protection to third parties who are in good faith over their property which is used as evidence of tipikor cases that do not belong to the defendant and are seized for the state, so that human rights in the form of property rights over third party property can be sought to be restored by being given proportional legal remedies balanced between the state through the State Attorney and third parties as citizens in a state of law.

Keywords: *Corruption, Third Party, Legal Remedies, Evidence*

INTRODUCTION

The Indonesia as a state of law has ratified the 2003 United Nations Convention Against Corruption (UNCAC) with Law Number 7 of 2006 concerning Ratification of the United Nations Convention Against Corruption (UNCAC) which in the consideration of paragraphs 5 and 7 has emphasized the need for international cooperation in the prevention and eradication of criminal acts of corruption, especially against the flow of funds originating from criminal acts of corruption so that the return of funds originating from criminal acts of corruption becomes a priority. The law authorizes investigators of the Police, Prosecutor's Office, or Corruption Eradication Commission (KPK) to confiscate goods that are strongly suspected to be the proceeds of a criminal offense, or at least there is a strong suspicion that the goods are the proceeds of a criminal offense that the goods in question have a close relationship with a criminal offense or are a means for the perpetrator of a criminal offense to use the goods as evidence in the investigation, prosecution, and appear in court. The items can not only belong to the suspect or defendant, where a third party in good faith can also own items that can be confiscated if the investigator has a strong suspicion that the suspect is closely involved in a corruption crime. Article 19 paragraph (2) of Law Number 31 of 1999 concerning the Eradication of Corruption, determines that if in a court decision the evidence is declared confiscated or seized for the state, then the third party can file an Objection Petition no later than 2 (two) months after the reading of the court's decision, and for the decision in the objection petition case both the Public Prosecutor and the Third Party can file a legal remedy in the form of Cassation. For the cassation

decision handed down by the court in this objection case, if the third party's objection is granted, the Public Prosecutor can file a civil lawsuit so that efforts to recover state losses can be optimized, while for the third party, if the objection decision is rejected, there are no more legal efforts that can be made so that his property which is used as evidence in a corruption crime returns to the third party as the owner. So that the provision of legal remedies to the Public Prosecutor and third parties in corruption cases in relation to evidence is not balanced and proportional.

This shows the incompleteness of the rule of law (incompleted norm) which is the background of the author in this writing

RESEARCH METHODS

The research conducted in this research is normative juridical legal research, namely research on legal norms or rules, using a statutory approach and concept approach. Normative juridical legal research does not recognize the existence of data in the research used, to answer legal problems it is necessary to have sources of legal materials consisting of primary legal materials, secondary legal materials, tertiary legal materials. Primary and Secondary Material Search Techniques are carried out by literature study (literature review) and internet searching and inventory of laws and regulations related to the problems to be discussed, then the laws and regulations are grouped based on their hierarchy. Techniques in Legal Material Analysis using Systematic Interpretation techniques.

RESULT AND DISCUSSION

1. Regulation of Legal Remedies as a Form of Protection of Third Party Rights in Article 19 paragraph (2) of Law No. 31/1999 on Corruption Crime.

The As one of the types of criminal acts that are extraordinary (extra ordinary crime), the norms of Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption in conjunction with Law Number 20 of 2001 concerning the Eradication of the Crime of Corruption determine the existence of separate additional punishments or punishments in addition to the main and additional punishments as specified in Article 10 of the Criminal Code.

Regarding the types of punishment/penalty, it has been explained in Article 10 of the Criminal Code (KUHP) which determines that the types of punishment/penalty can be divided into 2 (two) parts, namely:

- a. Basic Punishment, which consists of: (1). death penalty, (2). imprisonment, (3) confinement and (4) fines ;
- b. Additional Punishment, which consists of: (1) revocation of certain rights, (2) forfeiture of certain goods and (3) announcement of the judge's decision;

Meanwhile, in the crime of corruption as determined by the norms of Article 18 of Law Number 31 Year 1999 concerning Eradication of Corruption, regarding additional punishment in the form of: Forfeiture of proceeds of corruption, one type of additional punishment that can be imposed in the crime of corruption specifically as specified in paragraph (1) that: In addition to the additional punishment as referred to in the Criminal Code, as additional punishment are: Forfeiture of tangible or intangible movable property or movable property used for or obtained from the crime of corruption, including the company owned by the convicted person where the crime of corruption was committed, as well as the goods that replace these goods;

Taking into account the provisions of Article 18 paragraph (1) letter a of Law No. 31 of 1999, it shows that confiscation of evidence in corruption crimes can be carried out against goods obtained / proceeds of corruption crimes in addition to goods used as tools or goods that replace them. This means that legal action in the form of confiscation of evidence in corruption crimes can be carried out even though the defendant does not enjoy the results of his actions as the evidence in question.

Although the state can carry out confiscation of goods related to the crime of corruption that have been made in the form of other goods or goods that replace them, legal action in the form of confiscation as one type of punishment that can be imposed in corruption cases must still pay attention to the rights of good faith third parties who also have the right to legal protection of their property which is used as evidence and declared confiscated to the state in corruption cases based on court decisions handed down in corruption cases.

As stated above, the norm of legal protection for third parties in corruption cases is specifically contained in the provisions of Article 19 paragraphs (1) to (5) of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, which states as follows:

1. Judgment of the Court concerning forfeiture of property not belonging to the accused shall not be rendered, if the rights of a third party in good faith would be prejudiced;
2. In the event that the court decision referred to in paragraph (1) also includes the property of a third party in good faith, the third party may file a written objection with the court concerned, no later than 2 months after the court decision has been pronounced in public.
3. The filing of a written objection as referred to in paragraph (2) shall not suspend or stop the execution of the court judgment.
4. In the circumstances referred to in paragraph (2), the judge shall request information from the public prosecutor and the interested party.
5. The judge's determination on the letter of objection as referred to in paragraph (2) may be appealed to the Supreme Court by the applicant or by the public prosecutor.

Starting from the regulation of legal protection for third parties over their property used as evidence in corruption cases based on court decisions declared confiscated to the state, by guiding the provisions of Article 19 paragraph (1) and paragraph (2) of Law No. 31/1999 on the Eradication of Corruption Crimes mentioned above, it shows that according to the law, the form of legal protection given to third parties in corruption crimes can be given with one important condition, namely that the third party referred to in corruption cases must be a third party in good faith.

The form of legal protection given to third parties in corruption crimes is referred to according to Article 19 paragraph (2) of Law No. 31 of 1999 jo No. 20 of 2001 concerning Eradication of Corruption Crimes, in the form of being given the opportunity to file a legal remedy in the form of filing a Petition of Objection to his property which is used as evidence and then turns out to be declared confiscated to the state by a court decision in a corruption case, which is submitted to the court where the main corruption case is examined and tried and a decision is made.

The regulation of evidence in criminal cases as well as the legal action of deprivation of evidence in criminal cases in general and the regulation of evidence specifically in corruption cases including the action of deprivation of evidence declared forfeited to the state as well as legal protection of third party rights to their property which is used as evidence declared forfeited to the state in a court decision is regulated in the norms of Law Number 8 of 1981 concerning Criminal Procedure Code as a generally applicable Criminal Procedure Law, as well as specifically regulated in the norms of Article 19 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning Eradication of Corruption.

In addition to the regulatory norms regarding evidence, especially in corruption cases, including the confiscation of evidence for the state and the legal protection of third party rights to their property which is used as evidence declared seized for the state in a court decision, which is regulated in the norms of the Criminal Procedure Code as the applicable Criminal Procedure Law, as well as specifically regulated in the norms of Article 19 of Law Number 31 Year 1999, it turns out that in the practice of law enforcement in the eradication of corruption crimes there are also arrangements in the Jurisprudence of the Supreme Court of the Republic of Indonesia which are also rules that can be guided, as a final level court that has the authority to produce its decisions which are followed continuously in the same and similar cases so that they can be used as a source of law in law enforcement for efforts to eradicate corruption crimes, namely as the Jurisprudence of the Supreme Court of the Republic of Indonesia No: 736 K/Pid.Sus/2009 Dated August 03, 2009 on behalf of the Defendant H. Tengku Azmu Jaafar, Supreme Court of the Republic of Indonesia, which basically states the rule of law regarding objections by third parties to evidence in criminal cases, namely: *"That even though the third party objection letter is filed outside the grounds of cassation, but because it has filed an objection in accordance with and fulfills the provisions (filed within the time limit), the Supreme Court is of the opinion that the objection application can be considered in the context of legal protection of the interests of good faith third parties"*.

In reality, although the procedural law regarding the examination of objections by third parties in corruption cases has been regulated in the provisions of Article 19 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, it still leaves many problems. Some of the problems that can make this provision not in accordance with the purpose of the provision itself, namely:

1. There is no obligation for the court registrar to notify the decision to the third party subject to the forfeiture action, so it may happen that the third party does not know the contents of the decision until the expiration of the period for filing objections.
2. Technically, the judicial decision on forfeiture is a decision on ownership dispute (which is the domain of civil law) or criminal law, but it is not clear which procedural law is used, civil or criminal procedural law.
3. The submission of objection is in the form of objection, but it is not explained what form the decision on objection, determination, or verdict will take.
4. It is not stipulated whether the main case judge can hear objections.
5. It is not stipulated what the consequences are if the objection decision is different from the main case decision.
6. There is no obligation for the judge to hear testimony from third parties who may be subject to forfeiture.

In connection with this, by looking at some of the problems that arise over the regulation of legal protection of third party evidence in corruption cases that are seized for the state as regulated in the norms of Article 19 of Law No. 31 of 1999, it turns out that the problem in question concerns the incomplete factor of more detailed and complete regulatory norms and details regarding the regulation of the filing of objections filed by third parties to evidence in corruption cases, especially regarding the determination of the filing deadline, namely regarding the filing of an objection within 2 (two) months after the Court's decision is read out in court and the procedure for filing it, as well as regarding the procedure for examination at the Court hearing, namely the examination of objections by third parties to evidence in the corruption case. Noting that there are still problems regarding the incomplete arrangements in Article 19 of Law No. 31 of 1999 concerning the Eradication of Corruption, the legal protection of third parties over evidence in corruption cases has resulted in differences and different applications in the practice of law enforcement to eradicate corruption, especially in cases of objection requests submitted by third parties to the Court.

The regulation regarding legal remedies against court decisions on objection requests filed by third parties in corruption cases as referred to in Article 19 paragraph (5) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption, only briefly determines that against the judge's decision on an objection request filed by a third party in a corruption case, legal remedies in the form of cassation can only be submitted to the Supreme Court either by the third party or by the public prosecutor. The regulation regarding this legal remedy does not regulate and determine explicitly and in detail the calculation of the time limit for filing a cassation appeal to the Supreme Court, nor does it regulate the procedure for filing a cassation appeal, whether the cassation appeal can be filed in the same manner as the procedure for filing a cassation appeal in a corruption case as the main case, both the reasons for filing a cassation appeal, as well as the time limit for filing the cassation appeal, or it is also not determined by a separate *lex specialis* considering that corruption as an extra ordinary crime requires extra ordinary measure

2. The Juridical Consequences of Not Fulfilling the Rights of Third Parties According to Article 19 Paragraph (2) of Law N0. 31/1999 on the Eradication of Corruption Crime

To ensure the application of the provisions of Article 19 of Law No. 31 of 1999 on the Eradication of Corruption in the settlement of objections to decisions declaring the forfeiture of evidence that does not belong to the accused perpetrator of corruption but belongs to a third party in good faith, for the sake of legal certainty for legal protection for third parties in good faith, it is deemed necessary to have guidelines for the procedure for resolving the examination of objections by third parties to the seizure of evidence declared forfeited to the state while the evidence does not belong to the accused perpetrator of corruption, in the form of special procedural guidelines.

Based on this rationale, Supreme Court Regulation No. 2 of 2022 on the Procedure for Settling Good Faith Third Party Objections to the Decision on the Forfeiture of Property Not Owned by the Defendant in a Corruption Crime Case was issued by the Supreme Court as the last bastion of the implementation of justice, including criminal justice in Indonesia, in order to provide certainty for legal protection for third parties in corruption cases whose property has been used as evidence and declared forfeited to the state, in accordance with the intent of the norms of Article 19 of Law No. 31 of 1999 jo No. 20 of 2021 concerning the Eradication of Corruption.

The main requirement that must be met in filing an objection submitted by the Applicant as a third party to evidence in a corruption case that is seized and submitted as evidence at trial is that it must be submitted by a third party in good faith, while according to article 1 paragraph (3) of Supreme Court Regulation No. 2 of 2022, it is stated that a Third Party in good faith is a party who can prove to be the legal owner, guardian, guardian of the owner of the goods, or curator in a bankruptcy case for goods that have no legal relationship in the process of corruption.

The principle thing in the Supreme Court Regulation of the Republic of Indonesia Number 2 Year 2022, is the determination of the right to give good faith third parties the right to file an objection within 2 (*two*) months as stipulated in Article 19 of Law Number 31 Year 1999, where in Article 4 paragraph (1) of the Supreme Court Regulation of the Republic of Indonesia Number 2 Year 2022 it is determined that: An objection must be filed within a maximum period of 2 (*two*) months after the Court's decision on the main case is pronounced in a session open to the public and further clarified by Article 4 paragraph (2) of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022, namely: In the event that the main case decision is an appeal or cassation decision, the objection shall be filed no later than 2 (*two*) months after the excerpt/copy of the decision is notified to the Public Prosecutor, the Defendant and/or announced on the Court notice board and/or electronically.

The provisions of article 4 paragraph (2) of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022 make it clear that the provisions of article 19 of Law

Number 31 of 1999 in conjunction with Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption which determine the provision of legal protection to good faith third parties who are given the right to file an objection within 2 (*two*) months after the verdict is read out in a court session open to the public, must be interpreted as a grace period of 2 (*two*) months after the verdict of the corruption case being objected to has been read out in the trial of the Court of first instance at the District Court if the verdict is not appealed. Meanwhile, if the verdict in a corruption case as the main case is appealed up to the cassation level examination, then the provision of legal protection to third parties in good faith is given the right to file an objection to evidence in a corruption crime on the basis that the evidence in question is the property of the Objection Applicant and not the property of the Defendant, must be submitted within 2 months calculated after a copy of the decision is notified to the Public Prosecutor, the Defendant and/or announced on the Court notice board and/or electronically.

The provision provides an understanding that what means a grace period of 2 (*two*) months to be able to file an objection by the applicant as a third party in good faith on the basis of the reason that the evidence in a corruption crime case as referred to in Article 19 of Law Number 31 Year 1999, must be interpreted as 2 (*two*) months after the excerpt / copy of the decision is notified to the Public Prosecutor, the defendant and / or announced on the Court notice board or electronically, which means that it is also not after the verdict in a corruption case has permanent legal force (*in kracht van gewijsde*), which is because the Court's decision has permanent legal force (*in kracht van gewijsde*) is calculated within 14 days after the notified derivative/copy of the Court's decision is legally received, meaning that it is delivered to the party concerned according to the applicable procedural law by the Court officer. So that from this provision, the period given to third parties who are in good faith to file an objection to evidence in a corruption crime case to the Court is given for a longer period of time.

The regulatory provisions of Article 4 paragraph (2) in Supreme Court Regulation No. 2 of 2022 which provides a determination of the 2 (*two*) month grace period in filing objections to evidence in corruption cases by third parties, namely: 2 (*two*) months after the verdict of the corruption case to which the objection is filed has been read out in the trial of the Court of first instance at the District Court if the verdict is not appealed and in the event that the verdict of the main case is an appeal or cassation verdict, the objection shall be filed no later than 2 (*two*) months after the excerpt/copy of the verdict is notified to the Public Prosecutor, the Defendant and/or announced on the Court notice board and/or electronically, making there no longer differences in interpretation of the 2 (*two*) month grace period in the norms of Article 19 of Law No. 31 of 1999 concerning Eradication of Corruption.

According to Article 46 of Law No. 14 of 1985 Jo Law No. 5 of 2004 Jo Law No. 3 of 2009, it is stipulated that the request for Cassation legal remedy shall be filed within 14 (*fourteen*) days after the verdict is legally and properly notified. If it turns out that the submission of a Cassation legal remedy is filed late past the 14 (*fourteen*) day deadline, then the legal effect makes the Cassation legal remedy against the court's decision declared inadmissible (*niet onvankelijke verklaar*) in the decision of the Court of Cassation by the Supreme Court of the Republic of Indonesia. Similarly, the objection filed by the THIRD PARTY in the corruption case in relation to the PROOF that has been confiscated for the state cannot be maximally provided to the THIRD PARTY due to the delay in filing the objection which exceeds the time limit of 2 (*two*) months as stipulated by Article 19 of Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption, making the REQUEST filed by the THIRD PARTY unacceptable (*niet onvankelijke verklaar*) and on the issue there is no solution to the solution of the problem according to the researcher this can make the violation of the Human Rights of the Third Party GOOD FAITH for his right to regain his property which is being controlled by the State.

In the context of procedural law in the regulation of objections filed by good faith third parties in corruption crimes regulated by 15 Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022 concerning Procedures for Resolving Good Faith Third Party Objections to the Decision on the Deprivation of Evidence Not Belonging to the Defendant in a Corruption Crime Case, it is determined that against a decision in the form of a Court decision on the submission of objections by third parties to evidence in a corruption crime case, parties who do not accept the decision in the objection case are given the right to file legal remedies. So that if the objector feels that he does not accept and object to the Court's decision in the objection case, the third party can file a cassation appeal against the decision on the objection, as referred to in paragraph (1) within 14 (*fourteen*) days after the Stipulation is pronounced in an open session for the public or after the contents of the Stipulation are notified to the absent party, as referred to in paragraph (2).

Starting from the provisions of Article 15 of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022, that only legal remedies are provided in the form of Cassation to the Supreme Court as the *Judex Yuris* if the Court Decision on the Objection Petition filed by the THIRD PARTY in a corruption crime case is rejected or not accepted by the Parties, both the THIRD PARTY as the APPLICANT OF OBJECTION and the Public Prosecutor as the OPPOSED PARTY. So that there are no other legal efforts that can be submitted against the Decision of the Objection Application filed by the THIRD PARTY in the crime of corruption.

This is further emphasized by the provisions of Article 20 of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022, where the cassation decision in the case of objections by third parties to evidence in corruption cases cannot be filed for judicial review as an extraordinary legal remedy as stipulated in the Civil Procedure Law in general. Similarly, Article 4 paragraph (3) of Supreme Court Regulation of the Republic of Indonesia Number 2 of 2022 also expressly stipulates that objections can only be filed by third parties only 1 (*one*) time by the same party, meaning that objections by third parties to evidence in corruption cases cannot be filed a second time or in other words, objections by third parties cannot be filed more than once.

The juridical consequences of the regulation regarding Legal Remedies that can be filed in the case of an Objection Petition filed by a good faith THIRD PARTY in a corruption case, where if it is filed more than 14 (*fourteen*) days late after the cassation verdict in a corruption case as the main case which has stated that the Evidence is confiscated for the State is notified to the parties, then the cassation legal remedy filed as a legal result must be declared inadmissible (*niet onvankelijke verklaar*).

Similarly, guided by the provisions of Article 4 paragraph (3) of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022 concerning Procedures for the Settlement of Good Faith Third Party Objections to the Decision on the Forfeiture of Evidence Not Belonging to the Defendant in a Corruption Crime Case, regarding the submission of objections can only be submitted by third parties can only be submitted 1 (*one*) time by the same party, meaning that the submission of objections by third parties to evidence in a corruption crime case, In other words, the filing of objections by third parties cannot be filed more than once, so if in the process of the examination procedure the submission of objections filed by third parties is not carried out properly and correctly, then if the Objection Request must be filed again, the juridical consequences are the same, namely the Cassation Law Efforts filed as a legal result make it must be declared inadmissible (*niet onvankelijke verklaar*).

Viewed from the perspective of a sense of justice, in corruption crimes in relation to Evidence declared confiscated to the state, as referred to in Article 18 of Law No. 31 of 1999, according to the author, it is disproportionate because it is only given a very dominant proportion unilaterally to the State alone through the Public Prosecutor to optimally seek to recover State losses, This is good with the Reverse Evidence System (*omkering van het bewijslast*) which is a

deviation from the general principle of criminal law which determines that whoever claims to be innocent if he cannot prove it is considered guilty, where in corruption crimes the opportunity is given to the Defendant to prove based on valid evidence that his property confiscated to the state in corruption cases is not or was not obtained from the proceeds of corruption crimes charged against him. However, there is no proportion that feels fair enough that can be given to THIRD PARTIES for their Evidence that is used as Evidence in corruption cases that are declared to be confiscated to the State other than filing an Objection Request and based on the Procedure Law as stipulated by the Regulation of the Supreme Court of the Republic of Indonesia No. 2 of 2022 concerning Procedures for Resolving Good Faith Third Party Objections to Decisions on the Confiscation of Evidence Not Belonging to the Defendant in Corruption Crimes Cases, THIRD PARTIES even though they are GOOD FAITHFUL are only given a portion in the form of Cassation Legal Remedies with a very simple and simple Procedure.

Meanwhile, for the Public Prosecutor on behalf of the State, the evidence in corruption cases is very dominant in proportion to be able to optimally seek the return of state losses and because it is considered so important the nature of state financial recovery due to corruption crimes in order to create a sense of proportional justice for the community, the legislator provides a formal rule that even an acquittal (*vrijspraak*) does not eliminate the right of the Public Prosecutor to demand the return of state losses. Similarly, in the event that the investigator finds and is of the opinion that one or more elements of a corruption crime do not contain sufficient evidence, while there has clearly been a state loss incurred, the investigator can submit the case file resulting from the investigation to the Prosecutor as the State Attorney for a civil lawsuit or submit it to the aggrieved agency for legal action in the form of a Civil Lawsuit as referred to in Article 32 of Law No. 31 of 1999 concerning Eradication of Corruption Crimes.

Article 32 of Law Number 31 Year 1999 on the Eradication of Corruption in full reads as follows: In the event that the investigator finds and is of the opinion that one or more elements of the criminal act of corruption do not contain sufficient evidence, while there has clearly been a state loss incurred, the investigator may submit the case file resulting from the investigation to the Prosecutor as the State Attorney for a civil lawsuit or submit it to the aggrieved agency to file a lawsuit;

Starting from the above rationale, according to the author, in the perspective of a sense of justice, it is very unbalanced and disproportionate regarding the arrangements both in the norms of formal rules and in procedural law that provide arrangements for how THIRD PARTIES GOOD in corruption cases regain their property which is used as evidence and declared confiscated to the state by a court decision in a corruption case, Whereas in the formal rules the State Party through the Public Prosecutor is given a proportion in the form of formal rules as the norms of articles 32 and 33 of Law No. 31 of 1999 concerning the Eradication of Corruption, on the other hand, the THIRD PARTY is only given the formal rules as in article 19 of Law No. 31 of 1999, but with no provisions for guidance on the Law of Procedure on how Third Parties in corruption cases whose property is confiscated to the state can actually recover their property, even though in the practice of law enforcement there is a Supreme Court Regulation of the Republic of Indonesia No. 2 of 2022 as a guideline.

Meanwhile, if we look at the Law of Procedure provided to Third Parties for their Property that is used as Evidence in corruption cases and declared seized for the state as stated in the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022, there are still things that do not provide a sufficient proportion of legal protection for Third Parties in regaining their Property in corruption cases, as Article 19 of Law Number 31 of 1999, which only provides space in the form of legal remedies in the form of an Objection Request.

Furthermore, when examined regarding the Legal Remedies that can be filed by Third Parties in corruption cases when it turns out that the Objection Request is declared late to be filed or will be done for the second time, there is also no solution to the proportion of other legal

remedies as determined by Article 4 paragraph (3) of Supreme Court Regulation No. 2 of 2022, regarding legal remedies in the form of filing objections can only be filed by third parties only 1 (*one*) time by the same party, meaning that the filing of an objection by a third party cannot be filed a second time or in other words, the filing of an objection by a third party cannot be filed more than once, so if in the process of filing an objection filed by a third party is not done properly and correctly so that the Objection Request must be filed again, the juridical consequences are also the same, namely the Legal Efforts filed as a legal result make it must be declared unacceptable (*niet onvankelijke verklaar*).

Therefore, according to the researchers, based on the a-contario interpretation, which is based on the understanding and application of legal norms in reverse, because based on the provisions of Article 20 of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2022, where the cassation decision in the case of objections by third parties to evidence in corruption cases cannot be submitted for judicial review as an extraordinary legal remedy as in the provisions of the Civil Procedure Law in general, then the Good Faith Third Parties in corruption cases should also be given the same proportion as the State where the Public Prosecutor is given the right to continue to demand the return of state finances through the State Attorney through the mechanism of civil lawsuits. So the THIRD PARTY is also proportionally given the right to be able to file an ordinary civil lawsuit if it turns out that the legal efforts made by him through the Objection Request as referred to in Article 19 of Law Number 31 of 1999 are too late to be submitted to the Court or the Civil Procedure as regulated by the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2022, It turns out that it cannot be applied appropriately and optimally or even cannot be pursued by Third Parties due to ignorance or lack of understanding or legal awareness of their rights. So that there are still legal remedies that can be given to Third Parties in regaining their property which is used as goods in corruption cases and seized for the state.

Through the mechanism of legal remedies for filing a Civil Lawsuit by a Good Faith Third Party in a corruption case, if there are juridical obstacles in the Objection Request effort as referred to in Article 19 of Law No. 31 of 1999 concerning Eradication of Corruption Crimes or due to obstacles in the implementation of the Procedural Law as regulated by Supreme Court Regulation No. 2 of 2022 concerning Procedures for Settling Good Faith Third Party Objections to Decisions on Confiscation of Evidence Not Belonging to the Defendant in Corruption Crimes Cases, The purpose of this regulation is to ensure that legal protection for good faith third parties in corruption cases can truly be felt by justice seekers, especially for third parties in regaining their property rights in corruption cases, as stipulated in Article 19 of Law No. 31 of 1999 concerning the Eradication of Corruption.

CONCLUSION

1. Legal remedies as legal protection for good faith third parties in corruption cases for their property that is used as evidence and in corruption cases as the main case and the evidence is declared seized for the state, is in the form of being able to submit an Objection Request to the Court that decides corruption cases and the requirements for third parties in submitting an objection request must be based on good faith, namely the Third Party is not a participant or joint perpetrator or assistant in the crime of corruption, but the evidence is his property that does not originate or has nothing to do with the crime of corruption committed by the defendant. Article 19 paragraph (2) of Law No. 31 of 1999 as well as in the Law of Procedure as stipulated in Supreme Court Regulation No. 2 of 2022 concerning Procedures for the Settlement of Good Faith Third Party Objections to Decisions on the Deprivation of

Evidence Not Belonging to the Defendant in Corruption Cases, cannot be filed for Cassation a second time and also cannot be filed for Judicial Review.

2. The juridical consequences of not fulfilling the rights of third parties According to Article 19 paragraph (2) of Law no. 31 of 1999, because only the right to appeal in the form of Cassation is given to both the Third Party as the Objection Applicant and the Public Prosecutor as the Respondent and cannot be appealed for a second time and cannot be appealed for Judicial Review of the Decision on the Objection Application, then the legal remedies submitted will make it inadmissible (niet onvankelijke verklaar) making there a violation of the human rights of the Third Party in Good Faith because it results in obstruction and even loss of his property as his Basic Property rights that must be protected while the Third Party's property is not the result or related to the criminal act of corruption committed by the Defendant.

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