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Application of the Principle of a Good Faith Purchaser in the Crime of Motor Vehicle Embezzlement

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Abstract

Good-faith buyers and the true or original owners of an item often become victims or suffer losses when a crime occurs, particularly embezzlement. This occurs because the perpetrator (defendant) of the embezzlement crime has transferred (sold) the embezzled item to another party (the buyer), who is sometimes unaware that the item originated from the embezzlement crime. Therefore, problems arise when the judge examining and adjudicating the case

sentences the defendant and orders that the evidence be returned to the true owner (the original owner) or handed over to the purportedly good-faith buyer. This raises the question of who should be protected in such cases: the true owner (the original owner) or the good-faith buyer. Therefore, it would be interesting to discuss this issue in more depth in this study.

Keywords: Good-Faith Buyer, Objects/Evidence, Embezzlement Crime

Introduction

As is known, Private Law (Civil Law) is the law that regulates relationships between individuals or legal entities of a private nature. Meanwhile, Civil Law is a branch of Private Law that governs the rights and obligations between individuals in everyday life, such as contracts, inheritance, marriage, and ownership. These rights and obligations between individuals require regulation because they arise from agreements between individuals. In this case, agreements themselves arise because humans, as individuals, cannot live alone without relationships (including agreements) with other individuals; this is what is known as humans as social beings.¹

As social beings, humans naturally have interests in their relationships with others, which sometimes conflict. This conflict arises because human needs are unlimited, while the means to fulfill them are limited. This is where conflicts sometimes arise with the interests of other parties, who also have unlimited needs. Therefore, a set of legal regulations governing this issue is necessary to prevent broader impacts resulting from these conflicts of interest.²

These legal regulations concern, among other things, agreements involving the parties. One such agreement is a four-wheeled motor vehicle (car) sale and purchase agreement, which involves at least two parties: the seller and the buyer. In this car sale and purchase case, the seller, ZS, sold one silver Toyota Hiace Commuter minibus, with engine number: JTF8822P7KD188042 and chassis number: B003803, to Mr. IMA. In addition, ZS has also sold 1 (one) unit of Mitsubishi brand L300 car, Engine Number: 4D56CF49362 and Chassis Number: MHMLOWY394K004855 to Mr. MA.

The legal regulations in question concern, among other things, agreements involving the parties. One of the agreements discussed here is a four-wheeled motor vehicle (car) sale and purchase agreement, which in this case involves at least two parties: the seller and the buyer. In this car sale and purchase case, the seller, ZS, sold one silver Toyota Hiace Commuter minibus, engine number JTF8822P7KD188042 and chassis number B003803, to IMA. In addition, ZS also sold one Mitsubishi L300 car, engine number 4D56CF49362 and chassis number MHMLOWY394K004855, to MA.

¹ Intan Munirah, *et al.*, The Role of the Surrounding Community in Preventing Sexual Violence, *International Journal of Advanced Multidisciplinary Research and Studies*, Vol. 4 (6), 2024, pp. 1072-1077. Int. j. adv. multidisc. res. stud. 2024; 4(6):1072-1077.

² Achmad Rifqi Septianto, *et al.*, *Teori Tentang Pembentukan Hukum Ekonomi*, Jurusan Akuntansi, Politeknik Negeri Sriwijaya, Palembang, 2018.

According to ZB, the car sold by ZS to IMA and MA belongs to PT. Lumba-lumba Pulau Weh, of which ZB is the President Director. Therefore, ZB reported the case to the authorities (Sabang Resort Police) on January 19, 2024, with Police Report No. LP/B/2/1/2024/SPKT/SABANG RESORT POLICE/ACEH REGIONAL POLICE. ZB reported that ZS had committed embezzlement by selling one Mitsubishi L300 car to MA and one Toyota Hiace Commuter minibus to IMA, belonging to PT Lumba-lumba Pulau Weh.

The Sabang District Court, which examined and tried the case, stated, among other things:

1. That defendant ZS has been legally and convincingly proven guilty, as stated in the indictment, of committing the crime of embezzlement by a person in possession of goods under an employment relationship.
2. That defendant ZS is sentenced to 2 years and 6 months in prison.
3. That 1 (one) unit Mitsubishi L300 minibus with license plate number BL 1024 MA, along with its keys, and one Toyota HIACE with license plate number BL 7522 AC EX BL 7106, along with its keys, are returned to Witness ZB, the victim/complainant representing PT. Lumba Lumba Pulau Weh.

The Sabang District Court's decision clearly states that the Mitsubishi L300 minibus with license plate number BL 1024 MA and the Toyota HIACE with license plate number BL 7522 AC EX BL 7106, along with its keys, are returned to Witness ZB, the victim/complainant representing PT. Lumba Lumba Pulau Weh. In the sense that because it was legally and convincingly proven that the defendant committed the crime of embezzlement by a person who controlled something with whom he had an employment relationship, the car was returned to PT. Lumba-lumba Pulau Weh as the owner of the goods (car) that were embezzled by ZS.

Unlike the Sabang District Court (PN) Decision, the Supreme Court (MA) Decision No. 1626/K/Pid/2024 dated November 14, 2024, upheld the Banda Aceh High Court (PT) Decision No. 318/PID/2024/PT. BNA dated August 29, 2024, which amended the Sabang District Court Decision No. 11/Pid. B/2024/PN Sab. Essentially, the following is the ruling:

1. Declares Defendant ZS guilty of embezzlement, legally and convincingly proven guilty by a person in possession of the goods due to an employment relationship.
2. Sentences the Defendant to three years' imprisonment.
3. Confirms the remaining rulings of the Sabang District Court No. 11/Pid. B/2024/PN Sab.
4. Establishing the following evidence: 1 unit of white Mitsubishi L300 minibus with license plate number BL 1024 MA and 1 unit of silver HIACE car, license plate number BL 7522 AC EX BL 7106, 1 unit of Mitsubishi L300 minibus key, 1 sheet of Mitsubishi L300 STNK and 1 sheet of HIACE STNK in the name of the owner PT. Gadeng Cahaya Bersama, returned to the rightful owner, namely witness MA.

The essence of the Banda Aceh High Court's decision is that:

1. The defendant ZL was sentenced to 3 years in prison from 2.5 years.
2. The evidence, a Mitsubishi L300 minibus and a HIACE van, were previously returned to ZB, the

victim/complainant representing PT. Lumba Lumba Pulau Weh, and returned to the Supreme Court, the owner of PT. Gadeng Cahaya Bersama.

One of the legal considerations of the Supreme Court and the Banda Aceh High Court regarding the two cars was that MW (PT. Gadeng Cahaya Bersama) was the legal owner of the two cars, as MW acquired (purchased) the cars in good faith. Therefore, a buyer acting in good faith should be protected or receive legal protection. However, upon closer analysis, the case reveals a contradiction between the Supreme Court and Banda Aceh High Court decisions and the Sabang District Court decision. In this case, the two cars were the object of embezzlement committed by a person in possession of the goods under an employment relationship. The Sabang District Court returned the evidence to ZB, the victim/complainant representing PT. Lumba Lumba Pulau Weh, while PT Banda Aceh returned the evidence to MW (PT. Gadeng Cahaya Bersama), which acquired (purchased) the car in good faith. However, on the other hand, PT Banda Aceh acknowledged and upheld the Sabang District Court's decision, which found Defendant ZL guilty of the crime charged legally and convincingly.

Therefore, if the Supreme Court and the Banda Aceh High Court agree with the Sabang District Court's ruling, the evidence should also be returned to the victim/complainant, ZB, as the representative of PT Lumba Lumba Pulau Weh. Conversely, if the Supreme Court and the Banda Aceh High Court disagree with the Sabang District Court's ruling, citing the buyer's good faith, then the Banda Aceh High Court should also acquit Defendant ZL, as ZL sold the two cars in good faith and did not constitute a criminal offense. Therefore, it is interesting to examine this issue in depth under the title "The Influence of the Principle of Good Faith on the Status of Evidence in Motor Vehicle Embezzlement Crimes."

Research Methods

This research is normative legal research, as it examines the Judge's Decision in a motor vehicle embezzlement case, issued by the Supreme Court No. 1626/K/Pid/2024 dated November 14, 2024, which upheld the Banda Aceh High Court Decision No. 318/PID/2024/PT.BNA dated August 29, 2024, amending the Sabang District Court Decision No. 11/Pid.B/2024/PN-Sab dated July 1, 2024. Therefore, the legal materials (i.e., primary legal materials) examined in this study are Supreme Court Decision No. 1626/K/Pid/2024 dated November 14, 2024, Banda Aceh High Court Decision No. 318/PID/2024/PT. BNA dated August 29, 2024, and Sabang District Court Decision No. 11/Pid. B/2024/PN Sab. The approaches used in this study are a case study approach, a statutory approach, and a conceptual approach. Data collection was conducted through library research on both primary and secondary legal materials. Furthermore, interviews were conducted with relevant parties involved in the case as sources for this study. Furthermore, data analysis was conducted qualitatively.

Results and Discussion

Application of the Good Faith Purchaser Principle in Motor Vehicle Embezzlement Crimes

As previously stated, this study is based on judges' decisions in motor vehicle embezzlement cases, namely Supreme Court Decision No. 1626/K/Pid/2024 dated November 14, 2024, and Banda Aceh High Court Decision No.

318/PID/2024/PT.BNA dated August 29, 2024, which amended Sabang District Court Decision No. 11/Pid.B/2024/PN-Sab. The three court decisions differed in interpretation and perspective, which affected the status of the evidence after the judge examined and ruled on the case. In this case, the Sabang District Court Decision No. 11/Pid.B/2024/PN Sab determined that the following evidence consisted of: (a) one white Mitsubishi L300 minibus with license plate number BL1024MA and one car key; and (b) one silver metallic Toyota Hiace with license plate number BL7522AC EX BL7106 and one car key; which were returned to the reporting witness or victim, Zainuddin bin Bardan, representing PT Lumba-Lumba Pulau Weh. To provide a clear picture of what occurred and the subject of the dispute, the following is a summary of the issues or case position of the case:

- a. That ZS (the Seller/as Defendant) is an employee at PT Lumba Lumba who has worked for approximately 5 (five) years who was given the task of managing PT Lumba Lumba's assets in the form of 1 (one) Mitsubishi L-300 car with license plate number BL 1124 MA and 1 (one) Toyota Hiace car with license plate number BL 7522 AC, where the two cars are physically under the control of the Defendant and are stored at the Defendant's house, and both cars are even recorded in the Motor Vehicle Ownership Book (BPKB) in the name of the Defendant. According to B.Y., an employee of PT Lumba-lumba, the Defendant's name was listed on the vehicle registration certificates (BPKB) of both cars, "because the Defendant is a well-behaved, polite, and diligent employee of PT Lumba-lumba. Furthermore, it facilitates the Defendant in managing matters related to the two cars, such as annual tax payments, five-year vehicle registration certificate (STNK) renewals, filing insurance claims in the event of an accident, and so on."³
- b. Without the knowledge of PT Lumba Lumba, Defendant ZS exchanged the Mitsubishi L-300 with license plate number BL1124MA for a Toyota Avanza belonging to Witness MARWAN plus Rp5,000,000.00. The Defendant then sold the Toyota Avanza for Rp80,000,000.00. In addition to exchanging the Mitsubishi L-300, the Defendant also sold the Toyota Hiace with license plate number BL 7522 AC to Witness IRWAN for Rp439,000,000.00.
- c. Defendant ZS sold the assets of PT Lumba Lumba, consisting of one L-300 with license plate number BL 1124 MA and one Toyota Hiace with license plate number BL 7522 AC, which had been entrusted to the Defendant, with the aim/motive of obtaining financial gain for the Defendant's personal benefit and not for the benefit of the company.
- d. Based on the Defendant's actions in abusing PT Lumba-lumba's trust by embezzling company assets, the Defendant has fulfilled the elements of Article 374 of the Indonesian Criminal Code.

Based on the above description, the judge at the Sabang District Court, who examined and tried the case, issued the following verdict:

- a. Declaring defendant ZS legally and convincingly guilty of committing a crime as stipulated in Article 374

KUHP, "intentionally, unlawfully, the defendant possesses all or part of the property, including the property of another person, where the property is in his or her possession or control, not due to a crime, committed by a person who controls or holds the property because of his or her own work or position or because he or she receives monetary remuneration," as stipulated in the First Primary Charge, namely violating Article 374 KUHP.

- b. Sentencing defendant ZS to four years' imprisonment, minus the time the defendant has served in detention, and ordering that the defendant remain in detention.
- c. Declaring that the evidence in the form of: 1 (one) Mitsubishi L-300 car with license plate number BL 1124 MA and 1 (one) Toyota Hiace car with license plate number BL7522AC EX BL7106 be returned to Witness ZB as the Reporter and Victim representing PT Lumba Lumba.
- d. Determining the court costs of Rp 5,000.- to be charged to the Defendant ZS.

Based on the verdict of the judge who examined and tried the case, it can be concluded that the defendant ZS was legally and convincingly proven to have committed the crime of embezzlement in office, where he intentionally owned against the rights of an item (in this case 1 (one) Mitsubishi L-300 car with license plate number BL 1124 MA and 1 (one) Toyota Hiace car with license plate number BL7522AC EX BL7106) which was wholly or partially owned by another person (owned by PT Lumba-lumba) and the car was in his hands not because of a crime, but because the defendant ZS received trust from PT Lumba-lumba, so that the defendant held the car because of his own position or because of his work or because he received a salary.

If we pay attention to the judge's verdict above, in his considerations the judge did not question or consider the issue of the rights of third parties (in this case MA and IMA) who bought the car from the defendant ZS. In the sense that MA who bought a Mitsubishi L-300 car with the number plate BL1124MA for Rp120,000,000, - and IMA who bought a Toyota Hiace car with the number plate BL7522 Ek BL7106 for Rp439,000,000, it was not mentioned in the judge's consideration that MA and IMA bought the car in good faith. In other words, it can be said that if the Defendant ZS has been proven to have committed the crime charged against him, namely the crime of embezzlement in office, then the goods (1 (one) unit of Mitsubishi L-300 car with the number plate BL 1124 MA and 1 (one) unit of Toyota Hiace car with the number plate BL7522AC EX BL7106) which belong to the company PT Lumba-lumba which in this case is represented by witness ZB. Therefore, the two car units were returned to witness ZB as the Victim/Reporter, and the judge does not need to consider that MA and IMA bought the car in good faith.⁴

Thus, the decision of the Panel of Judges at the Sabang District Court (Sabang District Court Decision No. 11/Pid.B/2024/PN Sab dated July 1, 2024) to sentence Defendant ZS to a criminal sentence was appropriate, as based on the results of the court examination, Defendant ZS was legally and convincingly proven to have committed the crime charged by the Public Prosecutor in the indictment. This is in accordance with Article 183 of the Criminal Procedure

³ Bayu, Pegawai/Karyawan PT. Lumba Lumba Pulau Weh, *Wawancara*, 12 Februari 2025.

⁴ Herni Hidayati, Advokad atau Penasihat Hukum ZB selaku Saksi/Korban, *Wawancara*, 13 Februari 2025.

Code (KUHAP), which stipulates that a judge can only sentence a defendant if there are two valid pieces of evidence and the judge's conviction. In this case, judges are limited by law in carrying out their duties in examining and adjudicating a case.⁵

Based on this provision, for a person to be declared guilty and the judge to impose a sentence, two requirements must be met:

1. There must be at least two valid pieces of evidence.
2. Based on this valid piece of evidence, the judge must be convinced that the defendant is guilty of the crime.⁶

Furthermore, the Panel of Judges at the Sabang District Court determined that the evidence in two cars (1 Mitsubishi L-300 car with license plate number BL 1124 MA and 1 Toyota Hiace car with license plate number BL7522AC EX BL7106) be returned to witness ZB as the victim/reporter in the case. This is appropriate because the victim/reporter witness, ZB, was the one who was harmed in this case. So because he felt harmed by ZS, ZB as the owner of the company PT. Lumba-lumba Pulau Weh, in this case ZB as the President Director, reported to the authorities (Sabang City Resort Police) on January 19, 2024 with Police Report No. LP/B/2/1/2024/SPKT/POLRES SABANG/POLDA ACEH. ZB reported that ZS had committed a criminal act of embezzlement, namely by selling goods belonging to PT. The dolphins of Pulau Weh were handed over one Mitsubishi L300 car to the Supreme Court and one Toyota Hiace Commuter minibus to IMA. Therefore, it was appropriate for the Judge to order the return of the evidence in the two cars to the victim/reporter ZB.

Subsequently, Defendant/Convict ZS and the Public Prosecutor both filed legal challenges to the Sabang District Court Decision No. 11/Pid.B/2024/PN Sab dated July 1, 2024. This legal remedy is called an appeal or appeal to the High Court.⁷ In this case, the Banda Aceh High Court (PT Banda Aceh). The purpose of filing an appeal is to allow parties who feel aggrieved by the decision of the first instance court (District Court) to obtain a re-examination, both from a legal perspective and in terms of the facts that occurred or were revealed in court.⁸ Therefore, according to Shindy Dwianisa,⁹ an appeal is intended to ensure fairness in the examination of the case at the first instance (District Court).

The appeal filed by Defendant/Convict ZS is on the grounds that Defendant/Convict ZS has not been legally and convincingly proven to have committed the crime as charged by the Public Prosecutor in his indictment. According to Defendant ZS, selling the two cars was not an

unlawful act, especially since the owner's name listed on the Vehicle Registration Certificate (BPKB), Vehicle Registration Certificate (STNK), and Tax Invoice of both vehicles is in his name (in Defendant ZS's name). Therefore, the Defendant ZS asked the panel of judges at the appellate level (Banda Aceh High Court) to determine that the Defendant/Convict ZS was not legally and convincingly proven to have committed a crime as charged by the Public Prosecutor in his indictment and 1 (one) unit of Mitsubishi L-300 car with license plate BL 1124 MA was returned to MA, because the goods or car were purchased openly and in cash according to the market price in a public place. Then the person who sold it was the person who had the right to the car according to the name of the owner in the BPKB, therefore the witness MA was a buyer in good faith, so it was necessary to determine that the evidence as mentioned above was returned to the rightful party, namely MA. Furthermore, 1 (one) unit of Toyota Hiace car with license plate BL7522AC EX BL7106 was returned to IMA, because the goods or car were purchased openly and in cash according to the market price in a public place. Then the person selling is the person who has the right to the car according to the name of the owner in the BPKB, therefore the witness IMA is a buyer in good faith, so it is necessary to determine that the evidence as mentioned above is returned to the person entitled to it, namely IMA.

The Aceh High Court judge, who examined the case at the appeal level, ultimately ruled as follows: Amending the Sabang District Court Decision No. 11/Pid.B/2024/PN-Sab dated July 1, 2024, specifically regarding the sentence imposed and the evidence of two vehicles (one Mitsubishi L-300 with license plate number BL 1124 MA and one Toyota Hiace with license plate number BL7522AC EX BL7106). Therefore, the full verdict reads as follows:

- a. Declaring that Defendant ZS, as previously mentioned, has been legally and convincingly proven guilty of the crime of "Embezzlement committed by a person in possession of the goods due to an employment relationship."
- b. Sentencing Defendant ZS to three years in prison.
- c. Upholding the remaining terms of the Sabang District Court Decision No. 11/Pid.B/2024/PN-Sab dated July 1, 2024.
- d. Determining the evidence confiscated from witness MA in the form of 1 unit of Mitsubishi L-300 car with police number BL1124MA, the item was purchased openly and in cash according to the market price in a public place, the person selling is the person who has the right according to the name of the owner in the BPKB, therefore witness MA is a buyer in good faith, it is necessary to determine that the evidence as mentioned above is returned to the person entitled, namely witness MA. Meanwhile, the evidence confiscated from witness IMA in the form of 1 unit of Toyota Hiace car with police number BL7522AC EX BL7106, the item was purchased openly and in cash according to the market price in a public place, The person selling it is also the person entitled to the ownership as stated in the Vehicle Registration Certificate (BPKB). Therefore, witness IMA is a buyer in good faith, so it is necessary to determine that the evidence mentioned above be returned to the rightful owner, namely witness IMA.

⁵ Ramadhan F., Suhaimi., Rizanizarli. "Restructuring judges' independence in the criminal justice system in the perspective of Pancasila". *International Journal of Law*, Volume 8, Issue 2, 2022, Pages 18-22.

⁶ Richard Lokas, Barang Bukti dan Alat Bukti Berdasarkan Kitab Undang-undang Hukum Acara Pidana, *Lex Crimen*, Vol. II/No.3/Jul/2013, pp. 45-54.

⁷ Riduan Syahrani, *Hukum Acara Perdata: Dalam Teori dan Praktik*, serta Buku Materi Dasar Hukum Acara Perdata, Bandung: Citra Aditiya Bakti, 2013.

⁸ *Ibid.*

⁹ Shindy Dwianisa, Analisis Upaya Hukum Banding Dalam Menjamin Keadilan Terhadap Proses Peradilan Pidana di Indonesia, *YUSTHIMA*, Vol. 05 No. 01, 2025, pp.375-384.

The Banda Aceh High Court judge considered that the crime committed by Defendant ZS was not solely due to Defendant ZS's malicious nature, but was also due to the opportunity provided by PT Lumba-Lumba, which gave Defendant ZS great freedom to control both vehicles completely, even registering the vehicles in Defendant ZS's name. However, Defendant ZS exploited the trust placed in Defendant ZS to profit for himself. As a result of the Defendant's actions, the victim suffered significant losses, which could even hamper the victim's business and even destroy the victim's business. Therefore, the sentence imposed was unfair based on a sense of justice according to law or a sense of justice from the community, especially the victim. So the Banda Aceh High Court Panel of Judges increased the prison sentence for the defendant from 2.5 years or 2 years 6 months (Sabang District Court Decision No. 11/Pid.B/ 2024/PN-Sab) to 3 (three) years in prison.

According to the victim witness/Reporter ZB, the car sold by Defendant ZS to IMA and MA belonged to PT. Lumba-lumba Pulau Weh, in this case ZB is the President Director. Therefore, because he felt aggrieved by Defendant ZS, ZB reported it to the authorities (Sabang City Resort Police) on January 19, 2024 with Police Report No. LP/B/2/1/2024/SPKT/SABANG RESORT POLICE/ACEH REGIONAL POLICE. ZB reported that ZS had committed the crime of embezzlement by selling goods belonging to PT. Lumba-lumba Pulau Weh in the form of 1 (one) Mitsubishi L-300 car to MA, and 1 (one) Toyota Hiace Commuter Minibus to IMA. Thus, if analyzed in depth, the interest of the victim witness/Reporter ZB in reporting the matter to the Sabang Resort Police was solely to want the two cars to be returned to ZB as the President Director of PT Lumba-lumba Pulau Weh.

According to ZB as the victim/Reporter and President Director of PT Lumba-lumba Pulau Weh, what is really expected from his report to the Sabang Resort Police regarding the embezzlement of 2 (two) units of his company cars by the Defendant ZS is the return of the two units of cars to PT Lumba-lumba Pulau Weh. The issue of how long the Defendant ZS will be sentenced is not a problem for ZB, it is up to the Judge to sentence the Defendant ZS for the actions he committed. Even if the judge didn't sentence Defendant ZS, it wouldn't have been a problem for him. Even a long sentence of 10 years wouldn't have benefited him. He even felt sorry for ZS's wife and children, who had no one to support them during his sentence. Therefore, the severity of the prison sentence imposed on ZS wasn't the issue; what was most important to ZB was the return of the two cars to his company.¹⁰

However, the judge disagreed, stating that the buyers (MA and IMA) were in good faith. They were considered to be in good faith because they purchased the goods openly and in cash at the market price in a public place. The seller was also the rightful owner, as stated in the vehicle registration certificate (BPKB). Therefore, witnesses MA and IMA were in good faith. Therefore, it was necessary to determine that the evidence mentioned above be returned to its rightful owners, namely witnesses MA and IMA.

For comparison, the following is a Surakarta District Court Decision No. No. 162/Pid.B/2015/PN-Skt, where the decision, although not exactly the same, has some principal

points that are almost the same as the case at the Sabang District Court as described above. These points include:

- a. Both cases involve motor vehicle embezzlement.
- b. Both cases involve the identification of evidence in the form of a car.

The differences between these cases are:

- a. In the Sabang case, the car was sold to a third party.
- b. In the Surakarta case, the car was used as collateral for a debt to a third party.
- c. In the Surakarta case, the evidence was returned to its original owner.
- d. In the Sabang case, the evidence was returned to the third party, the purchaser in good faith.

The judge at the Surakarta District Court stated that the car must be returned in the same condition as when it was received. Any damage to the body, engine, and all accessories is the responsibility of the renter, with the calculation being that there is no mutual loss for the renter or the owner. In the Sabang case, the Supreme Court ruled that the car be returned to the third party, the purchaser in good faith. The Supreme Court took into consideration the position of the evidence because the buyer in principle did not know that the car sold by Defendant ZS was not the personal property of Defendant ZS, but rather belonged to PT Lumba-lumba Pulau Weh. The car was then purchased transparently and in cash at the market price in a public place. The seller was also the rightful owner, as stated in the vehicle registration certificate (BPKB). Therefore, witnesses MA and IMA were buyers in good faith. Therefore, it was necessary to determine that the evidence mentioned above be returned to the rightful owners, namely witnesses MA and IMA. In this case, the Judge prioritized the buyer in good faith over the original owner.

Indeed, the Judge should prioritize the original owner of the evidence over the buyer in good faith. Were the buyers (i.e., MA and IMA) truly buyers in good faith? This still requires a more in-depth examination. The Judge should investigate the matter, not just focus on the formality,¹¹ namely the receipt for the money from the sale of the car in question. Such a receipt could easily have been produced by the Defendant, his legal counsel, the Buyer, or anyone else involved in the sale. A receipt and a Rp 10,000 stamp are sufficient evidence that the car was sold at market value.

The consequences of the Supreme Court judge's decision greatly affect the position of evidence in the form of 2 (two) cars, namely 1 Mitsubishi L-300 car with license plate number BL1124MA and 1 Toyota Hiace car with license plate number BL7522AC EX BL7106, where the evidence was handed over to a buyer in good faith. So the position of 1 Mitsubishi L-300 car with license plate number BL1124MA is in the possession of the Supreme Court and 1 Toyota Hiace car with license plate number BL7522AC EX BL7106 is in the possession of IMA. The position of the evidence should be in the possession of the Victim/Reporter Witness as the original owner or legal owner of the evidence of the 2 cars.

In relation to third parties (buyers) who act in good faith, they often assume that they have legal protection and cannot be sued. This is the principle used by the Banda Aceh High

¹⁰ ZB, Direktur PT. Lumba Lumba Pulau Weh selaku Saksi/Korban, *Wawancara*, 13 Februari 2025.

¹¹ Fauziah Lubis, Upaya Mencari Kebenaran Materiil Dalam Hukum Acara Perdata, *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, Vol. 5 No. 2 Mei - Agustus 2025, pp. 1233-1245.

Court Judge and the Supreme Court Judge in determining the evidence in the case, where the evidence is returned to the buyer who is a buyer who acts in good faith. In fact, in Civil Law, good faith is an honest, sincere attitude or intention, and there is no bad intention when carrying out a legal act or legal action or a transaction. If so, in the case of the sale and purchase transaction referred to above only intended for buyers who act in good faith, while the seller in the case did not act in good faith.

Conclusion

In a criminal act of embezzlement where evidence has been transferred (sold) to a third party (buyer), judges sometimes differ in the application of the law, particularly in determining the value of the evidence. In this case, some items are returned to the original or actual owner, while others are returned to the third party (buyer) because the buyer is deemed to have acted in good faith, resulting in the original owner suffering a loss on the items. The occurrence of this difference of opinion can be seen in the Sabang District Court Decision No. 11/Pid.B/2024/PN-Sab, which examined and tried the case, which stated, among other things: That 1 (one) Mitsubishi L300 minibus with license plate number BL 1024 MA along with its keys and 1 (one) Toyota HIACE with license plate number BL 7522 AC EX BL 7106 along with its keys were returned to Witness ZB as the Victim/Complainant representing PT. Lumba Lumba Pulau Weh. The decision shows that because it was legally and convincingly proven that the defendant committed the crime of embezzlement by a person who controls something that has an employment relationship, the car was returned to PT. Lumba-lumba Pulau Weh as the owner of the goods (car) that were embezzled by ZS. In contrast to the Sabang District Court, the decision of the Banda Aceh High Court turned out to be the opposite by determining that 1 (one) unit of Mitsubishi L300 minibus with police number BL 1024 MA along with the key and 1 (one) unit of Toyota HIACE car with police number BL 7522 AC EX BL 7106 along with the key were returned to witnesses MA and IMA as buyers in good faith. In this case, the Judge prioritized buyers in good faith, compared to the actual owner or original owner of the two cars.

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