



LEGAL CERTAINTY FOR GOOD INTENTION THIRD PARTIES REGARDING THE EXECUTION OF SEIZED GOODS CORRUPTION CRIMINAL CASE WHICH HAS THE ENFORCEMENT OF PERMANENT LAW

Triyana Setia Putra
Ramlani Lina Sinaulan
Mohamad Ismed
Madeline Vanessa Audrey
Felicitas Sri Marniati

Jayabaya University
triyana.everyutra76@gmail.com

Article history:	Abstract:
<p>Received: January 6th 2023 Accepted: February 6th 2023 Published: March 14th 2023</p>	<p>The results obtained from the research, that 1) In the current criminal procedural law, the third party link at the investigation stage is when objects owned or under their control are confiscated by investigators in corruption cases. At the prosecution stage, the confiscated objects are presented as evidence (trial evidence). During the verdict trial, the judge's decision ordered the prosecutor to return evidence to the person or person named in the decision, if the evidence is not related to corruption. 2) The legal rights that can be used by a third party in good faith when their property is confiscated at the investigation stage, presented as evidence at the prosecution stage, or confiscated for the State or destroyed in a decision are: first, conduct a pretrial, second, file an objection letter, third, took civil resistance in accordance with Article 574 BW. 3) In order to provide legal certainty to third parties with good intentions, it is necessary to revise Article 152 paragraph (2) of the Criminal Procedure Code and Article 19 paragraph (2) of the TPK Law No. 31 of 1999 by requiring the judge to order the prosecutor to summon a third party with good intentions to appear at trial.</p>

Keywords: Legal Certainty for Good Faith Third Parties

INTRODUCTION

Indonesia is a constitutional state, as emphasized in Article 1 paragraph (3) of the post-1945 Constitution. amendment. This means that the Unitary State of the Republic of Indonesia is a state based on law (rechtsstaat), not based on mere power (machtsstaat). In an effort to prevent and eradicate criminal acts of corruption effectively and aspirationally with the demands of society, the main attention is directed to law enforcement officials and their statutory regulations. The success of law enforcement on corruption cannot be separated from the 5 (five) main apparatus; police, prosecutors, judges, advocates, and correctional institutions.

In enforcing the law on eradicating corruption, the court has the authority to impose additional penalties in the form of confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, whose final status is determined through a court decision. Article 19 of the Corruption Crime Law provides an opportunity for the owner of confiscated goods, where the owner is not the accused in the criminal case, to file an objection letter. But the Corruption Crime Act does not clearly regulate how the procedure for filing, examining and executing the status of confiscated goods this case gave rise to differences in interpretation and application of procedures for handling objections, which in the end did not provide legal certainty for third parties with good intentions as owners of part or all of the confiscated goods.

Under the current regulations, if a third party in good faith objects to the confiscation, the law provides rights for it through channels; first, pretrial according to the decision of the Constitutional Court (MK) Number 21/PUU-XII/2014 on April 28 2015 which expanded the provisions of Article 77 letter a of the Criminal Procedure Code regarding objects of pretrial by including confiscation as an object of pretrial. Second, if the court decision states that the evidence was confiscated for the state, a third party with good intentions has the right to file an objection letter at the District Court where the case (tipikor) was decided in accordance with the provisions of Article 19 paragraph (2) of the TPK Law No. 31 of 1999 in conjunction with Law No. 20 Year 2001, no later than 2 (two) months after the verdict was read. Third, a third party in good faith can file a (civil) challenge at the District Court where the case was

examined and decided, in accordance with Article 574 Burgerlijk Wetboek (BW) which reads: "Every owner of something material has the right to sue whoever controls it, will the return of the object in its state".

However, in practice, legal certainty regarding objects belonging to third parties with good intentions which are objects of confiscation at the investigation stage and evidence at the prosecution stage is not felt to be optimal. Considering that a third party in good faith was not confronted or presented at the prosecution hearing. Even if it is presented, it must be submitted by the public prosecutor or the defendant. If not, then a third party in good faith must wait for a decision to submit a letter of objection (Article 19 paragraph (2) UUT TPK No 31 of 1999), or submit a pretrial against the confiscation which has a separate hearing from the trial for the prosecution of corruption cases. The prosecution trial only involved the prosecutor and the accused who were accompanied by their attorneys.

Article 152 paragraph (2) of the Criminal Procedure Code only authorizes the judge to order the public prosecutor to summon the accused and witness to appear at court hearings, not with a third party in good faith. The article reads: *"The judge in determining the day of the trial as referred to in paragraph (1) orders the public prosecutor to summon the accused and witnesses to appear at the trial court."*

Because it does not mention a third party with good intentions, Article 152 paragraph (2) of the Criminal Procedure Code automatically places third parties with good intentions in a passive position. Likewise with Article 19 paragraph (2) and (3) of the TPK Law No. 31 of 1999 which only gives legal rights in the form of an objection letter by a third party who does not accept the decision, and even then the submission of the objection letter does not stop or suspend the implementation of the decision. Even though a third party in good faith has a legal interest to explain and prove his civil rights regarding the origin of the object of confiscation or evidence. This is one of the deficiencies in criminal procedural law at the prosecution stage, especially the execution stage, which is the author's finding.

From the results of a search of literature and research related to similar titles and research topics, the researcher found Muhammad Rayendra Permana Master of Notary Program at Gajah Mada University 2015 with the title "Legal Status of Third Party Asset Ownership Confiscated through Court Decisions", this paper analyzes the civil side of assets belonging to a third party with good faith who was confiscated through a court decision by encouraging a good-intentioned third party to carry out reverse evidence as the party who was harmed by the court decision, Sigit Martono Aristo MA Pangaribuan SH.LLM Special Program in Procedural Law, Faculty of Law, University of Indonesia with the title "Protection Law of Good Faith Third Parties in Relation to Confiscation & Confiscation of Assets in Cases of Loruspi and Money Laundering Crimes, this paper analyzes the need for procedural law mechanisms for Good Faithful Third Parties to defend or defend their rights to assets / assets confiscated / legally seized , Lukman Hakim Doctor of Law Study Program, Faculty of Law, University of Hasanuddin Makasar 2021 with the title "Legal Protection of Evidence Owning Good Faithful Third Parties in Corruption Crime Cases at the Prosecution Stage", this paper focuses on legal steps which can be used by third parties in good faith if their property rights become objects of confiscation during the Investigation, Prosecution and Decision stages;

METHOD

This legal research is normative legal research or library research, which is carried out by examining library materials or secondary data (Soekanto, 2006). The approaches used in this study are the statutory approach , the case approach , the historical approach , the comparative approach and the conceptual approach (Marzuki, 2010).

The most important source of legal material used in normative research is library research . The source of legal material is primary, secondary and tertiary legal material. Legal material analysis techniques are carried out by means of legal interpretation (interpretation) and legal construction methods .

RESULTS AND DISCUSSION

Based on Article 4 paragraph (1) Perma 2/2022. Objections must be filed no later than 2 (two) months after the court's decision on the Main Case is pronounced in a hearing that is open to the public. In the event that the decision on the main case is an appeal or cassation decision, the objection is submitted 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," writes Article 4 paragraph (2) Perma Number 2 of 2022. The objection can be filed before or after the object being applied for is executed. If the objection is raised before the execution then this does not prevent the execution. Meanwhile, if the objection is filed after the execution, the Minister of Finance must be made a co-respondent.

However, in practice, even though Perma number 2 of 2022 has been issued concerning Supreme Court Regulations concerning Procedures for resolving Third Party Objections in good faith against the Decision of Confiscation of Goods not belonging to the accused in cases of Corruption, legal protection of objects belonging to third parties in good faith become objects of confiscation at the investigation stage and evidence at the prosecution stage is not considered optimal. Considering that a third party with good intentions is not confronted or presented at the prosecution hearing , this automatically places the third party in good faith in a passive position. Even if it is presented, it must be submitted by the public prosecutor or the defendant. If not, then a third party in good faith must wait for a decision to submit a letter of objection (Article 19 paragraph (2) UUT TPK No 31 of 1999), or submit a pretrial against the confiscation which has a separate hearing from the trial for the prosecution of corruption cases. The prosecution trial only involved the prosecutor and the accused who were accompanied by their attorneys . so that these conditions still position Third Parties with good intentions as parties who are harmed because there is no

Legal Certainty regarding their material rights which have been confiscated for the State.

With this provision, it is possible for a judge or court to issue evidence which, although relevant to the subject matter being tried, is on the grounds that the use of such evidence is seen as disruptive or harmful to the rights and interests of innocent third parties, as well as other considerations.

Confiscation as an additional punishment is part of the responsibility of the convict, however, if the owner has changed his ownership, then proper ownership of the property rights must be protected as long as the third party holding the asset is a third party with good intentions. The process of proving a good intention must be carried out and proven by interested parties not only according to formal legal provisions but also related to material evidence where material rights are recognized according to applicable legal provisions.

Determining the status of evidence by waiting for a final decision is an initial punishment for the parties owning the goods, especially third parties with good intentions. Because even if the evidence is returned, it does not mean that the Third Party does not suffer any loss considering the unpredictable time period and other possibilities related to potential profits, both material and immaterial loss, as well as the tax burden that must be borne.

The results of the author's research at the Corruption Crime Court at the Palu District Court and the Central Jakarta Court, regarding the efforts and procedures for filing objections to court decisions regarding confiscation of goods can be constructed as follows:

- a). The objection petitioner submitted an objection letter to the Chairman of the Corruption Court at the Palu District Court made up of at least 3 copies.
- b). Requests for objections are registered in a separate register book, separate from the main register of corruption cases, because there is no standard form or instructions from the Supreme Court like other case master register books and given a case number.
- c). The Chairperson of the Corruption Crime Court at the Palu District Court appointed a Judge who examined and decided on the objection case with the composition of 3 judges consisting of Corruption Crime Judges (all career Judges) and the Court Registrar appointed a Substitute Registrar to assist the Judge in making minutes of the trial in the form of Trial Minutes
- d). The Chief Judge of the Panel determines the date for the trial and orders the court confiscation to summon the parties, namely the objector and the objected objection, namely the Public Prosecutor or other interested parties;
- e). The first hearing of the Petitioner and the Respondent or other interested parties is present, then the trial is continued with the reading of the objection letter, if one of the parties is not present, the trial is adjourned by calling back the parties who were not present by carefully examining the release of whether the summons has been made valid and proper summons. If the Petitioner has been legally and properly summoned to be absent without a valid reason, the judge will issue a decision of disqualification and if at the next hearing, the Petitioner is present while the Respondent is absent even though the person concerned has been legally and properly summoned but is absent without a valid reason, then the Judge will pass the decision with *verstek* (without the presence of the respondent).
- f). If the Petitioner and Respondent are present at the hearing, it will be continued with the reading of the letter of objection, then the response or answers from the Respondent, *replic* and *duplic*.
- g). Evidence from the Petitioner and the Respondent both in documentary evidence and witnesses.
- h). Conclusion (conclusion).
- i). Judge Deliberation and Determination.

DISCUSSION

In the discussion section, the important points that must be discussed are at least five discussions. First, there appears to be a link between the results obtained and the basic concept. It needs to be emphasized whether there is compatibility or conflict with the results of previous studies, better or vice versa. Second, describe the findings of the research results. Third, a sharp analysis of research data. Third, an explanation regarding the relationship with previous concepts or theories. Fourth, there are critical comparisons with other relevant studies. Fifth, use constructive arguments. Sixth, there are statements that corroborate or correct previous findings. The discussion can be presented in sub-sections.

A. Arranging for the confiscation of assets belonging to third parties with the same intention that has been executed by the Prosecutor as Executor

Law No. 31 of 1999 in conjunction with Law no. 20 of 2001 concerning the Eradication of Corruption, very few accommodate legal provisions governing legal certainty for third parties. The arrangements and discussions are limited to legal remedies in the form of an objection letter to the Court within 2 (two) months after the court's decision regarding the forfeiture is pronounced, then the Judge requests information from the Public Prosecutor and interested parties, as well as the Judge's products for the objection in the form of stipulations and stipulations. Such cassation can be submitted to the Supreme Court by the Petitioner or the Public Prosecutor, while the procedure or mechanism for examining objections to the law does not regulate it. When laws or regulations at the technical level, especially in their implementation, have not been able to function as instruments for carrying out political and legal transformations, then in fact we can still hope for judges.

Judicial practice found that there are various interpretations of the provisions of Article 19 of Law No. 31 of

1999 on Corruption as amended and supplemented by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning Eradication of Criminal Acts of Corruption . The first interpretation is that the terminology of objection is meant to be the same and soulful as an effort to sue in a civil case. The second interpretation is that the terminology of objections is the same as pretrial efforts in the Criminal Procedure Code but the procedures for examination are similar to civil procedural law (quasi civil), so objections here are subject to the realm of criminal procedural law.

Based on the provisions of 194 KUHP associated with the provisions of article 19 paragraph 1 of Law no. 31 of 1999 Jo Law no. 20 of 2001 concerning the status of evidence will be presented as follows:

1. Returned to the most deserving.

Court decision in a corruption case against non-owned evidence the defendant cannot be dropped, if the rights of a third party in good faith will be harmed. The provisions of Article 19 paragraph 1 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 do not provide a definition or understanding of third parties and good faith.

The Criminal Procedure Code intrudes on the term third party in Article 80 of the Criminal Procedure Code concerning examinations to check whether or not a termination of an investigation or prosecution can be submitted by investigators or public prosecutors, interested third parties to the Head of the District Court by stating the reasons. The definition of an interested third party is not explicitly explained by legislators, giving rise to various interpretations. From several opinions of legal experts, the authors conclude that the context of understanding third parties according to articles 19 and 38 of Law No. 31 of 1999 Jo Law No. 20 of 2001 is the owner or entitled to an item legally confiscated according to law, where the party has no legal connection in the process of realizing an offense. Likewise with the notion of good faith, legislators do not explain the definition or meaning of good faith. From several concepts of the notion of good faith put forward both in the provisions of 1963, 1977, 531, 548 of the Civil Code and the opinions of jurists, associated with the provisions of Articles 19 and 38 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, the authors argue that the existence of good faith good in every relationship with the community gives importance to public order, good faith as an inner attitude not to injure the rights of others is a guarantee for more orderly public relations. The absence of good faith in public relations leads to acts that are generally reproached by society, reproach comes from the mental attitude of the maker who does not have good faith, the mental attitude here leads to deliberate mistakes as a maker who is psychologically aware of his actions and the consequences that are inherent or may arise from these actions. Based on the description of the third party and the good faith mentioned above, in relation to the return of evidence to those entitled to it as a third party who is deemed to have good faith, what the third party must prove otherwise is:

- a). A person with good intentions puts full trust in the opponent, whom he considers honest and does not hide anything bad which will cause difficulties in the future.
- b). A person's honesty in carrying out a legal action, namely what lies in a person's inner attitude at the time a legal action is carried out.
- c). Must comply with the norms of decency and decency.

2. Seized for the benefit of the state or destroyed or destroyed

A court decision can also read that evidence is confiscated for the benefit of the state or destroyed or damaged so that it can no longer be used (Article 194 paragraph 1 of the Criminal Procedure Code). However, what is meant by evidence seized for the benefit of the state or confiscated for destruction or damage, is not explained further. According to Susilo, goods that can be confiscated can be divided into two types: :

- a). Goods (including animals) obtained by committing a crime. This item can be called "*Corpora Delicti*" , and can always be confiscated as long as it belongs to the convicted person and the origin is from crimes (both *dolus* and *culpa* crimes). If obtained by violation, the goods can only be confiscated in certain cases, for example Articles 549 (2), 519 (2), 502 (2) of the Criminal Code and others .
- b). Items (including animals) that are intentionally used to commit crimes, for example: machetes or firearms used to commit murder, tools used to induce abortions and so on, are usually called "*Instrumenta Delicta*" .

Confiscation of certain goods is one of the additional penalties as stated in Article 10 letter b number 2 of the Criminal Code, in Article 39 of the Criminal Code it states :

- a). Items belonging to the convict which were obtained from the crime or which were intentionally used to commit the crime may be confiscated.
- b). In the case of punishment for a crime that was not committed intentionally or because of a violation, a decision of confiscation can also be imposed based on matters specified in the law.
- c). Confiscation can be carried out against a guilty person who is handed over to the Government, but only for goods that have been confiscated

The court decision regarding confiscation of evidence for the benefit of the state as stipulated in Article 194 of the Criminal Procedure Code is connected with the provisions of Article 19 of Law No. 31 of 1999, Article 10 letter b of the Criminal Code, Article 39 of the Criminal Code, according to the author, if the court's decision determines that the confiscated evidence is confiscated for the state, then from the perspective of proof in a criminal case as stipulated in Article 184 of the Criminal Procedure Code, the Judge views that the

Public Prosecutor can prove his indictment that the confiscated evidence was obtained from the proceeds of corruption, supported by lawful evidence and has strong and decisive evidentiary value. If the court determines that the confiscated evidence was confiscated for the state, then based on the provisions of Article 19 paragraph 2 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, a third party can file an objection letter to the court within 2 months after the court decision is pronounced in session open to the public. The objection here is that it is a new tool in the Indonesian Criminal Procedure Code which is specifically regulated in Articles 19 and 38 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. From the perspective of third party legal protection through laws (rule), actually legislators - The law has accommodated the interests of third parties to submit objections to the court within 2 months after the court decision is pronounced in a hearing that is open to the public. Viewed from the perspective of procedural justice, in fact there has been legal protection for third parties, which furthermore whether the legal instruments are used or not by third parties and whether third parties can prove themselves as third parties with good intentions or not, this returns to the burden of proof of the parties.

3. Remain in the power of the prosecutor because the evidence is still needed in other cases.

If evidence is still needed in other cases, the court's decision regarding this evidence states that the evidence is still in the hands of the prosecutor, because it is still needed in other cases/evidence are returned to the Public Prosecutor to be used in the context of proving other cases .

In an effort to uncover this case, investigators also made efforts to collect items suspected of being related to criminal acts through forced efforts in the form of foreclosure. On process foreclosure the No only goods owned by suspect Which confiscation but also the belongings of other parties suspected of being related to either criminal act as a tool or the result of crime to be charged. other party referred to in this writing is a third party in good faith , namely the owner goods that are in the process of getting the goods into their power never know that the goods - goods that There is in his mastery is the result from a criminal act and the process of transferring goods is based on legal rights in accordance with applicable legal provisions .

B. The ideal legal concept to provide legal certainty for good-intentioned third parties whose material rights have been confiscated through a judge's decision

The provisions of Article 19 paragraph 2 of Law No. 31 of 1999 concerning the eradication of criminal acts of corruption as amended and supplemented by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of criminal acts of corruption state that the court representative referred to in paragraph 1 also includes goods from third parties who have good faith, then the third party can submit an objection letter to the court concerned, no later than 2 (two) months after the court's decision is pronounced at a hearing open to the public .

Regarding the decision of the judiciary in a criminal case, if the parties, namely the Public Prosecutor and the Defendant are not satisfied and want to fight against the decision, the Indonesian criminal procedural law system accommodates it through two types of legal remedies, namely ordinary legal remedies and extraordinary legal remedies. Ordinary legal remedies include filing an appeal to the High Court (Article 67 and Article 233 of the Criminal Procedure Code) and cassation to the Supreme Court. (Article 244 of the Criminal Procedure Code), while those included in extraordinary legal remedies are Cassation for the sake of law (Article 259 of the Criminal Procedure Code) and Review of Court Decisions that have permanent legal force (Article 263 of the Criminal Procedure Code). In connection with the legal remedies referred to in Article 19 paragraph 2 and Article 38 paragraph 7 of Law No. 31 of 1999 Jo Law No. 20 of 2001 with the term "objection" to decisions and decisions. KUHAP did introduce the term "objection" but not in the context of the legal effort referred to above.

There are several alternative solutions for third parties who object to the criminal law enforcement process related to evidence, including: -

1. Pretrial according to the decision of the Constitutional Court (MK) Number 21/PUU-XII/2014 on April 28 2015 which expanded the provisions of Article 77 letter a of the Criminal Procedure Code regarding pretrial objects by including confiscation as a pretrial object.
2. If the court decision states that the evidence was confiscated for the state, a third party with good intentions has the right to file an objection letter at the District Court where the case (tipikor) was decided in accordance with the provisions of Article 19 paragraph (2) of the TPK Law No. 31 of 1999 in conjunction with Law No. 20 of 1999 2001, no later than 2 (two) months after the verdict was read.
3. party in good faith can file a (civil) challenge at the District Court where the case was examined and decided, in accordance with Article 574 Burgerlijk Wetboek (BW) which reads: "Every owner of something material has the right to demand from anyone who controls it, the return of the object in its state."

There are two possible alternative solutions to the application of legal remedies for objections as referred to in Article 19 and Article 38 of Law No. 31 of 1999, although each still opens up opportunities for new problems or does not comprehensively and completely resolve the problem, namely:

- a). The first alternative is to attach the objection legal remedy to the currently known legal remedies, not in the context of criminal procedural law but in the construction of civil procedural law, namely by choosing between a lawsuit or a request, because in the field of criminal procedural law (which is

- regulated in the Criminal Procedure Code) as described previously has no analogues or,
- b). The second alternative is to make a legal breakthrough before the revision of Law No. 31 of 1999 or the revision of the Criminal Procedure Code through the creation separate procedures/mechanisms (*sui generis*) which so far have not been recognized in criminal procedural law or civil procedural law by continuing to use the term third party objection legal remedies but still within the framework of criminal procedural law .

Explanation of the mechanism or procedures for filing objections based on the provisions of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 and judicial practices carried out at the Corruption Court at the Palu District Court, the authors argue that there is a void in procedural law regarding procedures for examining efforts objections, so to fill the legal void, judges are required to make legal breakthroughs in the form of legal discoveries. Determination of the appointment of judges by the Chairperson of the Corruption Crime Court at the Palu District Court and the Central Jakarta District Court by stipulating The composition of the Panel of Judges consisting of 3 people consisting of career corruption judges does not involve ad hoc corruption judges, which contradicts the provisions of Article 26 of Law No. 46 of 2009 concerning the Court of Corruption, paragraph 1: In examining, adjudicating, and deciding corruption cases, it is carried out by the panel of judges has an odd number of at least 3 (three) judges and a maximum of 5 (five) judges, consisting of career judges and ad hoc judges.

In the opinion of the writer Asset protection owned by Party The three are in good faith Already naturally done since stage the beginning of the law enforcement process , namely when the investigation begins because at that time it is possible that there is a violation of the property rights of other parties related to forced measures in the form of confiscation. Foreclosures are in focus because of related foreclosure efforts with property rights namely rights _ that material primarily for pleasure, Which meant rights material is an absolute right means, the right attached to an object , gives direct power over the object and can be defended against demands each person.

Presence of Preliminary Examination Judges in the Draft Criminal Procedure Code who are within their powers and duties to examine all forms of coercive measures taken, including arrests, searches, confiscations, termination of investigations or prosecutions as well as rehabilitation and compensation from interested parties. This is in line with the current world trend towards an adversarial system, meaning that the positions of the public prosecutor and the accused and their legal advisers in court are balanced. For example, in practice carried out in *the common law system*, efforts to protect third parties or other parties in process Justice can found through application the concept of *Motion in Limine*, wherein in the judicial process it is possible to have an institution (such as a pretrial institution) that allows a Third Party to enter in good faith as Parties in the case in order to defend their interests by asking the Judge to exclude or rule out evidence which in his opinion could interfere with his legal interests, including evidence in the form of property belonging to the Third Party in good faith.

In America, draft motion in Limine This poured in Federal rules evidence (FRE) article 403, namely regarding Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons, which states that:

the court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confising the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

CONCLUSION

1. Protection law for party third have faith Good related application provision Corruption Crime law simultaneously in efforts to recover state losses, have not been able to provide maximum guarantees of legal protection. This is because the pretrial institutions regulated in the Criminal Procedure Code article 77 to article 82 only carry out formal examinations as well as limitations. from object Which can pre-trial as well party Which can submit it. Meanwhile, in relation to legal remedies, objections to asset confiscation in the provisions of Article 19 paragraph (2) of Law No. 31 of 1999 and Article 79 paragraph (6) of Law No. 8 of 2010 do not strictly regulates what legal remedy is meant, even though it is given s solution through PERMA No. 2 years 20 22 but still remains the ambiguity related to the time period, level of court decision referred to, as well as relative competence authority to which the objection may be filed.
2. Application pedestal right Which legitimate as per scales _ judge for _ return items confiscated and used as evidence in court proceedings unclear and very possible character subjective, Because ownership of goods Which based based on legal rights in accordance with the provisions of the law can be decided differently (confiscated or returned to most party entitled), p this is because :
 - a. Process reversal burden proof only done by party defendant convict, so that third parties who or only as witnesses or victims are less able to defend their rights optimally in the judicial process.
 - b. could be an object used as collateral for a debt or agreement .
 - c. Even if something grant is make an appointment it's free And giver grant No being

responsible for defects or lawsuits against items donated does not mean that the recipient of the grant loses the right to defend it.

3. Returning goods to third parties in good faith does not immediately eliminate losses arising either from impairment, investment or potential profits that can be utilized if the goods are not confiscated .

REFERENCE

1. Djoko Sumaryanto, 2009. Reversing the Burden of Proving Corruption Crimes in the Context of Returning State Financial Losses, Jakarta: Achievement of Pustaka Raya.
2. Achmad Ali, 2010. Revealing Legal Theory and Justice Theory. Jakarta. Kencana, 2010.
3. Adami Chazawi, 2005. Material and Formal Criminal Law on Corruption in Indonesia, Malang: Bayumedia Publishing.
4. Akil Mochtar, 2009. Reversal of the Burden of Proving Corruption Crimes. Jakarta: Secretariat General and Registrar Office of the Constitutional Court.
5. Amir Abadi Jusuf, 1999. Integrated Approach Auditing, First Book, Jakarta: Salemba Empat.
6. Andi Hamzah, 1985, Corruption in Development Project Management, Jakarta, Akademika Pressindo.
7. Aswanto, 2012. Law and Power; Legal Relations, Politics and Elections, Yogyakarta: Rangkang Education.
8. Baharuddin Lopa, 1987, Law on Corruption Eradication, Following Discussion and Application in Practice, Bandung: Alumni.
9. Bernard L. Tanya, Yoan N. Simanjuntak, Markus Y. Hage, 2013, Legal Theory: Human Orderly Strategies across Space and Generations, Yogyakarta: Genta Publishing.
10. Black, Henry Champbell, 1990. Black's Law Dictionary, Edition VI, West Publishing, ST Paul Minesota.
11. Handbook of Corruption, Understand First Then Fight, Jakarta: Corruption Eradication Commission of the Republic of Indonesia, 2013.
12. Chairul Huda, 2006. From No Crime Without Error To No Criminal Responsibility Without Error, Second Cet., Jakarta: Kencana.
13. Darwan Prinst, 1989. Criminal Procedure Code An Introduction, Jakarta: Djabatan Publishers. -----, 2002. Eradication of Corruption, Bandung: PT. Image Aditia Bakti.
14. E. Utrecht, Criminal Law, 1960. Yogyakarta: Gadjah Mada University (UGM) Press.
15. Echols, Jhon M. and Shadaly, Hasan, 1987. Indonesian English Dictionary, Jakarta: PT Ichtiar Baru Van Hoeve.
16. Eddy OS Hiarij, 2014. Principles of Criminal Law, Yogyakarta: Cahaya Atma Pustaka.
17. Evi Hartanti, 2005, Corruption Crime, Jakarta: Sinar Graphic.
18. H. Jawade Hafidz Arsyad, 2013. Corruption in the Perspective of HAN, Jakarta: Sinar Graphic.
19. H. Parman Soeparman, 2009. Arrangements for the Right to Submit Legal Reconsideration in Criminal Cases for Victims of Crime, Bandung: Refika Aditama.
20. Hanafi Amrani and Mahrus Ali, 2015. Criminal Responsibility System Development and Implementation, Jakarta: PT Rajawali Press.
21. Hans Kelsen, 2006. General Theory of Law and the State. Bandung: Nusa Media Publisher.
22. I Made Widnyana, 2010. Principles of Criminal Law, Jakarta: Fikahati Aneska. IGM Nurdjana, 2010. The Criminal Law System and the Latent Danger of Corruption Perspective of Upholding Justice Against the Legal Mafia, Yogyakarta: Student Library.
23. Indriyanto Seno Adji, 2003, Overview of Corruption and the Corruption Eradication Commission, Jakarta: Office of Lawyers and Legal Consultants.
24. Joko Setiyono, 2005. Legislative Policy in Indonesia regarding Crimes Against Humanity as a Form of Serious Human Rights Violations, in Human Rights, Nature, Concepts and Implications in the Perspective of Law and Society. (Editor Muladi), Bandung: PT Refika Aditama.
25. Juajir Sumardi, 1995. Legal Aspects of Franchise and Transnational Companies, Bandung: Citra Aditya Bakti.
26. Indonesian Dictionary, 1991
27. Big Indonesian Dictionary Language Center, 2008. Fourth Edition, Jakarta: PT Gramedia Pustaka Utama.
28. Big Indonesian Dictionary, 1991 Big Indonesian Dictionary, Ministry of National Education, 2007. Third Edition, Jakarta: Balai Pustaka.
29. Kramer SR AIN, 1997. Indonesian English Pocket Dictionary, Jakarta: PT Ichtiar Baru Van Hoeve.
30. Lilik Mulyadi, 2007. Criminal Procedure Law, Normative, Theoretical, Practice and Problems, Bandung: Alumni.
31. M. Friedman, Lawrence, 1999. "The Legal System: A Social Science Perspective", New York: Russel Soge Foundation, 1999.
32. M. Yahya Harahap, 1985. Discussion of Problems and Application of the Criminal Procedure Code, (Volume I), Jakarta: Kartini Library.
33. Mardjono Reksodiputro, 1987. The rights of suspects and defendants in the Criminal Procedure Code as part of the rights of citizens (civil rights), Jakarta: Institute of Criminology, University of Indonesia.

34. Modules on Corruption Crime, Education and Training for Formation of Prosecutors 2019, Prepared by the Module Development Team for the Republic of Indonesia Prosecutors' Education and Training Agency, Jakarta, 2019.
35. Moeljatno, 1993. Principles of Criminal Law, Jakarta: Rineka Cipta.
36. Muhammad Asrun, 2004. The Supreme Court judicial crisis under Suharto, first printing, Yogyakarta: Elsam.
37. Munir Fuady, 2006. Theory of Evidence (Criminal and Civil), Bandung: Citra Aditya Bakti.
38. NEAlgra, et.al, 1983. Dictionary of Legal Terms Fochena Andreae, Jakarta: Cipta Bina.
39. Academic Text of the Draft Law on the Code of Criminal Procedure Code.
40. Oemar Seno Adji, 1992. Confiscation of assets originating from criminal acts, Jakarta: Tri Graphic.
41. PAF Lamintang, 1984. KUHAP With Juridical Discussion According to Jurisprudence and Science According to Criminal Law, Bandung: Sinar Baru.
42. Purnadi Purbacaraka and A. Ridwan Halim, 1982, Property Rights Justice and Prosperity Review of Legal Philosophy, Jakarta: Ghalia Indonesia .
43. Wasingatu Zakiah, 2001. Law Enforcement of Corruption Laws, papers, Jakarta.
44. Winarso Zain, 2004. Corruption is a Common Enemy, Jakarta: Corruption Prevention Institute.
45. Yunus Hussein, 2008. The Country of the Money Launderers, (Jakarta, Pustaka Juanda Tigalima.
46. Yunus Husein, 2007. Anthology of Anti-Money Laundering, (Bandung: Books Terrace & Library.