E-ISSN: 3025-0994
Halaman 2943-2955
Volume 4 Nomor 3 Tahun 2026

Fiduciary Criminal Liability for the Transfer of Fiduciary Guarantee Objects without the Fiduciary Owner's Consent

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Abstrak

Penelitian ini bertujuan menganalisis penegakan hukum pidana terhadap pengalihan objek jaminan fidusia oleh pemberi fidusia di Kepolisian Resort Pohuwato serta faktor-faktor yang memengaruhinya. Permasalahan ini penting karena dalam praktik pembiayaan, objek jaminan fidusia sering tetap berada dalam penguasaan debitur, sehingga berpotensi dialihkan, digadaikan, atau disewakan tanpa persetujuan tertulis dari penerima fidusia. Penelitian ini menggunakan metode hukum normatif-empiris dengan pendekatan kualitatif. Data diperoleh melalui studi kepustakaan, wawancara, observasi, dan dokumentasi terhadap aparat kepolisian, perusahaan pembiayaan, serta dokumen perkara terkait. Hasil penelitian menunjukkan bahwa penegakan hukum pidana terhadap pengalihan objek jaminan fidusia belum berjalan optimal. Meskipun Pasal 23 ayat (2) dan Pasal 36 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia telah mengatur larangan dan sanksi pidana, pelaksanaannya masih menghadapi hambatan pada tahap penyelidikan dan penyidikan. Hambatan tersebut meliputi kesulitan pembuktian, keterbatasan dokumen, sulitnya pelacakan objek jaminan, serta perbedaan pemahaman antara wanprestasi perdata dan tindak pidana fidusia. Kondisi ini berdampak pada lemahnya perlindungan hukum bagi kreditur dan menurunnya kepastian hukum dalam hubungan pembiayaan. Penelitian ini menegaskan perlunya peningkatan profesionalitas penyidik, koordinasi dengan perusahaan pembiayaan, serta penguatan administrasi jaminan fidusia guna mewujudkan kepastian dan perlindungan hukum bagi kreditur. Temuan ini diharapkan menjadi masukan bagi aparat penegak hukum dalam menangani perkara fidusia secara efektif.

Kata Kunci: Fidusia; Jaminan Fidusia; Pemberi Fidusia; Pengalihan Objek Jaminan; Pertanggungjawaban Pidana.

Abstract

This study aims to analyze the criminal law enforcement against the transfer of fiduciary collateral objects by the fiduciary grantor at the Pohuwato Resort Police, as well as the factors influencing it. This issue is important because, in financing practices, fiduciary collateral objects often remain under the control of the debtor, creating the potential for such objects to be transferred, pledged, or leased without the written consent of the fiduciary recipient. This study

employs a normative-empirical legal research method with a qualitative approach. Data were obtained through literature studies, interviews, observation, and documentation involving police officers, financing companies, and relevant case documents. The results show that criminal law enforcement against the transfer of fiduciary collateral objects has not been optimally implemented. Although Article 23 paragraph (2) and Article 36 of Law Number 42 of 1999 concerning Fiduciary Security regulate prohibitions and criminal sanctions, their implementation still faces obstacles at the investigation and inquiry stages. These obstacles include difficulties in proving the offense, limited documentation, difficulties in tracing collateral objects, and differing understandings between civil default and fiduciary crimes. This condition weakens legal protection for creditors and reduces legal certainty in financing relationships. This study emphasizes the need to improve the professionalism of investigators, strengthen coordination with financing companies, and enhance the administration of fiduciary security in order to realize legal certainty and legal protection for creditors. The findings are expected to serve as input for law enforcement officials in handling fiduciary cases effectively.

Keywords : Fiduciary Security; Fiduciary Grantor; Fiduciary Security Object Transfer; Fiduciary; Criminal Liability.

INTRODUCTION

Indonesia is a state of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Eni Dasuki Suhardini, 2015). The consequence of the principle of the rule of law is that every action of citizens, legal entities, and law enforcement officials must be based on the applicable law (Soegianto, Diah Sulistiyani R S, 2019). The law not only serves as a set of written norms, but also as an instrument to create certainty, justice, and protection of people's rights. In the context of economic life, law has an important role in ensuring the certainty of legal relations between parties, especially in the financing relationship between creditors and debtors (Iin Pahliani, 2024).

The development of financing activities in Indonesia shows a significant increase, especially in the consumer financing sector. People are increasingly using financing facilities to obtain motor vehicles, consumer goods, and productive goods without having to make cash payments (Purwanto et al., 2022). The financing system, on the one hand, provides convenience for the community in meeting economic needs. However, on the other hand, financing also poses legal risks, especially if the debtor does not fulfill his obligations or misuses the object used as collateral (Sri Hartini, 2016).

One form of collateral that is widely used in financing practices is fiduciary guarantees. Fiduciary guarantees are material guarantee institutions that allow the debtor to retain control and use the object of collateral, while the creditor obtains the right to collateral over the object. Regulations regarding fiduciary guarantees are contained in Law Number 42 of 1999 concerning Fiduciary Guarantees. Through a fiduciary construction, the right of ownership of the object is transferred in trust to the creditor, while the object of the guarantee remains in the control of the debtor. This character makes fiduciary very relevant in modern financing

practices because it provides a balance between the interests of creditors and the debtor's need to continue to use the collateral object (Hurtado-Hurtado et al., 2024).

However, the fiduciary character that allows the object of collateral to remain in the hands of the debtor also creates vulnerabilities. In practice, it is not uncommon for fiduciaries to transfer, mortgage, or lease the collateral object to another party without the written consent of the fiduciary. This action raises serious problems because the object that should be a guarantee for debt repayment can be lost, changed hands, or difficult to find when the debtor defaults. This condition is detrimental to creditors because the preferential right and certainty of execution of the collateral object are disrupted (Luo et al., 2024).

Normatively, the Fiduciary Guarantee Act has provided legal protection for creditors. Article 23 paragraph (2) of Law Number 42 of 1999 prohibits the fiduciary from transferring, mortgaged, or renting an object that is the object of fiduciary guarantee to another party without the written consent of the fiduciary, unless the object is a stock object. The prohibition is strengthened by the criminal provisions in Article 36 which states that a fiduciary who transfers, mortgages, or leases the object of fiduciary guarantee without the written consent of the fiduciary can be punished with imprisonment for a maximum of two years and a fine of up to fifty million rupiah.

The existence of these criminal provisions shows that the transfer of the fiduciary guarantee object without the consent of the fiduciary is not only a breach of contract, but can also be categorized as a criminal act. The criminalization of these actions is intended to provide stronger protection to creditors, maintain certainty in financing relationships, and prevent misuse of collateral objects by debtors. Thus, criminal law in fiduciary cases functions as an instrument of protection for the legal interests of creditors and the stability of the financing system (Niankara, 2019).

Although legal norms have clearly regulated the prohibition and criminal sanctions against the transfer of the object of fiduciary guarantees, the implementation of law enforcement has not always been effective. In practice, the handling of reports of fiduciary crimes often faces various obstacles, especially at the investigation and investigation stages. This stage is very decisive because it is the first door to assess whether a report can be upgraded to the next legal process. If the investigation process is slow, not transparent, or does not immediately provide certainty of the status of the case, then the goal of legal protection for creditors will not be optimally achieved.

This problem can be seen in the practice of handling alleged criminal acts of transferring fiduciary guarantee objects at the Pohuwato Resort Police. Based on preliminary data, from 2023 to 2025 there will be 23 reports of fiduciary crimes. Of these, 20 reports are still at the investigation stage, 1 case has entered the investigation stage, and 2 cases have reached the P21 stage. This data shows that most reports have not made significant progress towards the investigation stage. In fact, the average time needed for the transfer of cases reaches about ten months. This situation raises questions about the effectiveness of criminal law enforcement in fiduciary cases, especially in the aspects of speed, certainty, and professionalism in handling reports.

The slow process of handling fiduciary cases has an impact on legal certainty for creditors as aggrieved parties. The longer the investigation process takes, the greater the risk

of collateral objects being lost, changing hands, or difficult to track. As a result, the creditor's right to obtain repayment through the collateral object becomes weaker. In addition, delays in handling cases can also give the impression that violations of fiduciary provisions do not receive a firm legal response. In the long run, this condition can weaken contractual discipline in the financing system and reduce the confidence of financing institutions in the effectiveness of law enforcement.

The problem of criminal law enforcement regarding the transfer of the object of fiduciary guarantee cannot be separated from various factors that affect it. These factors can be in the form of legal substance, legal structure, or means of supporting law enforcement. From the aspect of legal substance, it is necessary to be clear about the application of criminal elements in Article 36 of the Fiduciary Guarantee Law, especially in distinguishing between civil default and criminal acts. From the aspect of legal structure, the capacity, professionalism, and coordination of law enforcement officials are important factors in determining the success of handling cases. Meanwhile, from the aspect of supporting facilities, the availability of evidence, agreement documents, fiduciary guarantee certificates, vehicle data, and cooperation with financing parties also determine the smooth investigation and investigation process.

Based on these conditions, research on criminal law enforcement on the transfer of fiduciary guarantee objects by fiduciaries is important to be carried out. This study not only examines the normative provisions in Law Number 42 of 1999 concerning Fiduciary Guarantees, but also examines how these norms are applied in law enforcement practices in the Pohuwato Resort Police. With this approach, this study is expected to be able to explain the gap between the law that should apply and the law that runs in practice, as well as identify the factors that affect the effectiveness of criminal law enforcement in fiduciary cases (Zaman et al., 2021).

Thus, this study has theoretical and practical urgency. Theoretically, this research can enrich the study of economic criminal law and guarantee law, especially regarding the relationship between creditor protection, legal certainty, and the effectiveness of criminal law enforcement. Practically, this research can provide input for police officers in improving the quality of handling reports of fiduciary crimes, as well as for financing institutions in strengthening legal risk mitigation against the transfer of collateral objects. On that basis, this study is directed to analyze criminal law enforcement on the transfer of fiduciary guarantee objects by fiduciaries at the Pohuwato Resort Police and the factors that affect them.

METHODS

This study uses a type of normative-empirical legal research. A normative approach is used to examine the legal provisions that govern the criminal act of transferring the object of fiduciary guarantees, especially Law Number 42 of 1999 concerning Fiduciary Guarantees, the Criminal Procedure Code, and Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. Meanwhile, an empirical approach is used to see the implementation of criminal law enforcement on the transfer of fiduciary guarantee objects by fiduciaries in practice, especially at the stage of handling reports, investigations, and investigations at the Pohuwato Resort Police (Saharuddin, Sri Winarsi, 2026).

The location of this study is the Pohuwato Resort Police. The selection of the location was based on a report of alleged criminal acts of transferring the object of fiduciary guarantee handled by the Pohuwato Police, so it is relevant to assess the effectiveness of criminal law enforcement in fiduciary cases. This study uses primary data and secondary data. Primary data was obtained directly through interviews with police investigators who handled fiduciary cases, the financing company as creditors or whistleblowers, and other parties related to the object of the research. Secondary data is obtained through literature studies of laws and regulations, books, scientific journals, case documents, complaint reports, and other relevant legal materials (Hasan et al., 2025).

Data collection techniques are carried out through literature studies, interviews, observations, and documentation. Literature studies are used to obtain legal and theoretical foundations that support research. The interview was conducted to find out information about the practice of handling fiduciary cases. Observation is used to see the process of reporting and follow-up of cases, while documentation is used to obtain written data that supports research results (Ilham, 2025).

The data obtained was analyzed qualitatively with a descriptive-analytical approach. The analysis is carried out by relating the applicable legal provisions with empirical facts in the field, so that it can be known how criminal law enforcement against the transfer of the object of fiduciary guarantee is carried out and the factors that affect it.

RESULTS AND DISCUSSION

Enforcement of Criminal Law on the Transfer of Fiduciary Guarantee Objects by Fiduciaries at the Pohuwato Police Station

Criminal law enforcement against the transfer of fiduciary guarantee objects by fiduciaries is an important part of legal protection for creditors in the relationship of collateral-based financing (Mulyati & Heriyanti, 2024). In financing practices, especially motor vehicle financing, fiduciary guarantees are used because they allow the debtor to retain control and use the object of the guarantee, while the creditor obtains legal guarantees for the repayment of the debt. However, this legal construction also poses risks, especially when the debtor as a fiduciary transfers, mortgages, sells, or leases the collateral object to another party without the written consent of the fiduciary (Qudus, 2019).

Normatively, this act has been regulated in Law Number 42 of 1999 concerning Fiduciary Guarantees. Article 23 paragraph (2) prohibits the fiduciary from transferring, mortgaged, or renting the object that is the object of fiduciary guarantee to another party without the written consent of the fiduciary, unless the object is an object of inventory. The prohibition is strengthened by Article 36 which regulates criminal threats for fiduciaries who transfer, pawn, or lease collateral objects without the written consent of the fiduciary (Number et al., 2021). Thus, the transfer of the object of fiduciary guarantee without permission is not only a default in a civil relationship, but can develop into a criminal offense if the elements are met.

In the context of the Pohuwato Police, law enforcement against fiduciary crimes begins with reports or complaints from creditors or financing companies. The report is generally filed when the debtor no longer fulfills the obligation to pay installments and the collateral object cannot be found because it has been transferred to another party. At this stage, the police act

as the starting door in the criminal justice system. The police must assess whether the report is only a civil dispute in the form of default or has met the elements of a criminal act as stipulated in the Fiduciary Guarantee Law.

The initial stage is the receipt of reports. At this stage, the reporter usually submits the chronology of events, the identity of the debtor, the financing agreement, the fiduciary guarantee certificate, proof of installments, warning letters, and proof that the object of the guarantee has been transferred or is no longer in the debtor's possession. These documents are the initial basis for investigators to assess whether there is an alleged criminal act. In fiduciary cases, documents have a very important position because the legal relationship between creditors and debtors must be proven through a financing agreement and a fiduciary guarantee certificate.

Once the report is received, the next process is an investigation. The investigation aims to find and find an event that is suspected of being a criminal act. In the case of the transfer of the object of fiduciary security, the investigator must ascertain a few important things. First, whether there is really a financing agreement between creditors and debtors. Second, whether the object in dispute has been legally burdened with fiduciary guarantees. Third, whether the debtor as a fiduciary still controls the object of the guarantee or has transferred it to another party. Fourth, whether the transfer was carried out without the written consent of the fiduciary. Fifth, whether the collateral object is not a supply object.

The investigation stage is very decisive because it is at this stage that a report is decided to be upgraded to the investigation stage or not. If the investigator finds sufficient preliminary evidence that a criminal act has occurred, the case can be raised to the investigation stage (Rusman Sumadi, 2021). However, if the evidence found is not enough, the case can be held at the investigation stage. In the research proposal, it was found that of the 23 reports of fiduciary crimes at the Pohuwato Police from 2023 to 2025, as many as 20 reports are still in the investigation stage, 1 case has entered the investigation stage, and 2 cases have reached the P21 stage. This data shows that most cases have not moved significantly towards further legal proceedings.

This condition shows that criminal law enforcement against the transfer of fiduciary guarantee objects at the Pohuwato Police is still facing effectiveness issues, especially at the stage of increasing the status of the case. Normatively, the criminal provisions in the Fiduciary Guarantee Law have provided a clear legal basis. However, in practice, not all reports can be immediately processed as criminal acts. Investigators must be careful because fiduciary cases are often on the border between civil default and criminal acts (Suryani et al., 2024). Not all debtors' failure to pay installments can be categorized as a criminal offense. Criminal elements only arise when there is an active action in the form of transferring, mortgageing, or renting out the collateral object without the written consent of the creditor.

The difference between default and criminal acts is an important issue in fiduciary law enforcement. Default occurs when the debtor does not meet the payment obligations as agreed. Meanwhile, a fiduciary crime occurs when the debtor commits an act that is expressly prohibited by law, namely transferring, pawning, or renting the object of fiduciary collateral without the written consent of the fiduciary. Therefore, investigators must be able to distinguish

whether the report submitted by creditors is only related to payment arrears or whether there is really a transfer of the collateral object to a third party (Siregar et al., 2023).

In practice, proving the transfer of collateral objects is not always easy. Creditors often only know that the object of collateral is no longer with the debtor when collection or withdrawal is made. However, to prove the existence of a transfer, the investigator needs witness statements, transaction documents, debtor acknowledgement, the existence of a third party, or other evidence that shows that the object of the collateral has transferred control. If the collateral object is not found, the proofing process becomes more difficult. This can cause many reports to be held up at the investigation stage.

Criminal law enforcement at the Pohuwato Police can also be seen from the aspect of legal protection for creditors. In a fiduciary relationship, the creditor has preferential rights and the right to execute the object of the guarantee if the debtor is injured by the promise. However, this right becomes ineffective if the collateral object has been transferred without permission. In such situations, criminal law serves as an additional instrument of protection. Through criminal proceedings, the state exerts legal pressure on debtors who abuse trust in fiduciary agreements. With the threat of criminal damage, it is hoped that the debtor will not easily transfer the object of the guarantee which is still legally a guarantee for debt repayment.

However, the effectiveness of such protection is highly dependent on the response of law enforcement officials. If the report is not followed up immediately or has been at the investigation stage for too long, then the protection for creditors becomes weak. Delays in handling cases can make the collateral object more difficult to track, move into the hands of other parties, or even disappear. In addition to harming creditors, this condition can also cause legal uncertainty in the financing system. Creditors not only lose the object of collateral, but also lose confidence in the effectiveness of criminal law as an instrument of protection.

Based on the data, the average time needed for the transfer of cases can reach about ten months. This duration shows that there are obstacles in the process of handling fiduciary cases. From the perspective of legal certainty, a process that takes too long can cause serious problems. Legal certainty does not only mean the existence of written rules, but also the existence of a clear, fast, measurable, and predictable law enforcement process. If the report of a fiduciary crime does not obtain certainty in a reasonable time, then the purpose of legal protection as referred to in the Fiduciary Guarantee Law will not be optimally achieved.

Criminal law enforcement against the transfer of the object of fiduciary guarantee also needs to pay attention to the principle of proportionality. Criminal law should not be used carelessly to resolve all financing disputes. If the problem that occurs is solely the delay in payment, then the solution is more appropriate through a civil mechanism or financing restructuring. However, if the debtor deliberately transfers the object of collateral without permission, thereby harming the creditor and eliminating the guarantee of debt repayment, then criminal law is appropriate to use. Thus, criminal law enforcement in fiduciary cases must be carried out selectively, carefully, and based on strong evidence.

On the other hand, the police also have a responsibility to keep the legal process from becoming a mere tool of pressure from creditors to debtors. In financing practice, the creditor's position is often stronger economically and administratively. Therefore, investigators must ensure that the criminal report truly meets the elements of a criminal act, not just used to

accelerate debt collection. This cautious attitude is important so that criminal law enforcement does not deviate from its function as an instrument of justice.

Thus, the enforcement of criminal law against the transfer of fiduciary guarantee objects by fiduciaries at the Pohuwato Police can be said to have a strong normative basis, but its implementation is not yet fully optimal. This can be seen from the number of reports that are still in the investigation stage and the few cases that have increased to the investigation stage and P21. This condition shows that there is a gap between legal norms and law enforcement practices. To realize effective legal protection for creditors, it is necessary to improve the quality of investigations, accelerate case handling, strengthen evidence, coordinate with financing companies, and have a proper understanding in distinguishing civil defaults from fiduciary crimes.

Factors Affecting Criminal Law Enforcement on the Transfer of Fiduciary Guarantee Objects by Fiduciaries at the Pohuwato Police Station

The enforcement of criminal law against the transfer of the object of fiduciary guarantee by the fiduciary is not only determined by the existence of legal norms in Law Number 42 of 1999 concerning Fiduciary Guarantees, but also influenced by various factors that work in law enforcement practices. A criminal norm can be formulated clearly, but it is not necessarily effective if it is not supported by an adequate law enforcement structure, sufficient supporting facilities, legal awareness of the parties, and a good legal culture. Therefore, to understand the enforcement of fiduciary criminal law in the Pohuwato Police, it is necessary to analyze the factors that affect its implementation (Nainggolan, 2019).

The first factor is the factor of legal substance. The legal substance in this context is the legal provision that is the basis for criminal enforcement against the transfer of the object of fiduciary guarantee (Kinanti et al., 2023). Law Number 42 of 1999 has regulated a prohibition for fiduciaries to transfer, mortgage, or lease collateral objects without the written consent of the fiduciary. Article 36 also provides a criminal threat for violations of these provisions. Normatively, this rule is quite clear because it contains prohibited acts, legal subjects that can be held accountable, and criminal sanctions that can be imposed.

However, in practice, the application of such norms is not always simple. One of the main problems is to distinguish between default in civil relations and fiduciary criminal acts. Debtors who do not pay installments do not necessarily commit a criminal act. A new criminal act can be constructed if there is an act of transferring, mortgage, or renting the object of collateral without the written consent of the creditor. Thus, law enforcement officials must be careful so that not all financing disputes are drawn into the criminal realm. Lack of clarity in understanding the boundaries between default and criminal acts can lead to hesitation in upgrading the report from the investigation stage to the investigation stage.

The factor of legal substance is also related to proving the elements of a criminal act. In a fiduciary case, the investigator must prove the existence of a valid fiduciary guarantee object, the existence of a fiduciary giver and receiver, the prohibition of transfer without consent, and the existence of a transfer act carried out by the fiduciary. If a fiduciary guarantee certificate is not available or the fiduciary registration is not carried out in an orderly manner, the proof process becomes more difficult. Therefore, the quality of the administration of

fiduciary agreements from the financing company also greatly affects the smooth implementation of the law (Avivah et al., 2022).

The second factor is the legal structure factor, namely the apparatus and institutions that carry out law enforcement. In fiduciary cases, the police have a strategic position because they are the first door in the criminal process. The Pohuwato Police is authorized to receive reports, conduct investigations, examine witnesses, collect evidence, find collateral objects, examine the reported person, and determine whether the case can be raised to the investigation stage. Therefore, the effectiveness of law enforcement is highly dependent on the professionalism, capacity, and thoroughness of investigators.

Based on the initial data in the proposal, most of the reports of fiduciary crimes at the Pohuwato Police are still in the investigation stage. Of the 23 reports in the 2023 to 2025 period, 20 reports are still in the investigation stage, 1 case is under investigation, and 2 cases have been P21. The data indicates that there are obstacles in the structure of case handling, especially in the process of improving the status of cases. This can be due to the limited number of investigators, the high burden of cases, limited technical understanding of fiduciary law, or the prudence of investigators in determining whether a case meets the criminal element.

Legal structure factors also include coordination between the police, financing companies, prosecutors' offices, and other related parties. In a fiduciary case, investigators need documents and information from creditors as whistleblowers. If the documents are incomplete or the reporting party is not cooperative in providing data, the investigation process can be hampered. In addition, coordination with the public prosecutor is also needed so that the case file prepared by the investigator meets the formal and material requirements. If coordination is not effective, the case file can go back and forth or take a long time before it is declared complete.

The third factor is the factor of supporting facilities and infrastructure. Fiduciary criminal law enforcement requires the support of adequate evidence and data. The object of fiduciary collateral, especially motor vehicles, can be easily moved, used by another party, sold underhand, or concealed. To track the existence of collateral objects, investigators need vehicle data, ownership information, witness statements, transaction evidence, and even in some cases need information technology support. If the means of tracking are limited, the collateral object is difficult to find and the proof of the transfer becomes not easy.

In addition to technical means, document administration is also an important factor. The finance company must be able to provide a financing agreement, a fiduciary guarantee deed, a fiduciary guarantee certificate, proof of installment payment, a warning letter, as well as proof that the debtor has transferred the object without permission. If these documents are incomplete, investigators will have difficulty compiling the construction of the case. Therefore, the supporting facilities do not only come from the police, but also from the quality of the creditor's administration as the reporting party.

The fourth factor is the community factor, especially the legal awareness of the debtor as a fiduciary. Many debtors do not yet understand that objects purchased through financing and burdened by fiduciary cannot be transferred freely. The debtor often feels that because the vehicle or goods are in his possession, he is free to sell, mortgage, or hand them over to

another party. In fact, legally, the object is a guarantee of debt repayment and its transfer is limited by law. This low legal awareness can encourage violations of fiduciary provisions.

On the other hand, public legal awareness is also related to the behavior of third parties who accept the transfer of the object of collateral. In some cases, third parties purchase or receive vehicles from debtors without checking the legal status of the object. This complicates the law enforcement process because the object of the collateral can move into several hands. The more parties involved in the transfer, the more difficult it will be for investigators to trace the whereabouts of the object and prove criminal acts committed by the fiduciary.

The fifth factor is the legal culture. Legal culture reflects people's attitudes, habits, and views on the law. In financing practice, there is still a view that installment arrears and vehicle transfers are common problems between debtors and financing companies. This view can weaken the deterrence of criminal norms in the Fiduciary Guarantee Law. If the public considers the transfer of the object of collateral without permission as a reasonable action or simply a matter of debts and receivables, then compliance with fiduciary law becomes low.

Legal culture is also related to the perception of law enforcement. If a report of a fiduciary crime is seen as slow to be processed or does not provide certainty, then there can be an assumption that the fiduciary violation does not have serious consequences. This is dangerous because it can increase moral hazard, which is the tendency of debtors to ignore obligations because they feel that there are no effective sanctions. In the long run, this condition can undermine confidence in the financing system and increase the risk of non-performing loans.

The sixth factor is the complexity of proof. In fiduciary cases, the proof concerns not only the existence of the agreement, but also the act of transfer. The investigator must prove that the debtor intentionally transferred, mortgaged, or leased the collateral object without the creditor's written consent. If the debtor states that the object was borrowed by the family, lost, damaged, or located elsewhere, the investigator must conduct an in-depth investigation to ensure the correctness of the information. This complexity can cause the investigation process to take a long time.

The seventh factor is the geographical factor and the mobility of the collateral object. In areas like Pohuwato, the object of collateral in the form of motorized vehicles can move between sub-districts, between districts, and even out of the region. If the object of collateral has moved to another jurisdiction, investigators need cross-regional coordination. This process certainly requires time and resources. The mobility of the object of collateral is what causes the handling of fiduciary cases to be different from other criminal cases where evidence is relatively easy to secure.

The eighth factor is the role of creditors or financing companies. Fiduciary criminal law enforcement relies heavily on creditors' activeness in reporting cases, providing documents, presenting witnesses, and assisting in tracing the object of collateral. If the financing company does not have a good documentation system or is late in reporting the transfer of the collateral object, then the law enforcement process becomes more difficult. Reports filed after an old object has been lost or changed hands will make it difficult for investigators to find enough evidence.

The ninth factor is the procedural aspect. In the criminal justice system, any improvement in the status of the case must be based on sufficient evidence. Investigators cannot raise the case to the investigation stage only based on the allegations or unilateral claims of the complainant. This prudence is indeed important to prevent baseless criminalization. However, if the procedure runs too slowly or is not accompanied by clear communication to the complainant, it can cause legal uncertainty. Therefore, the procedure must be carried out carefully but still effective.

Based on these various factors, it can be understood that criminal law enforcement against the transfer of fiduciary guarantee objects at the Pohuwato Police Station is influenced by the relationship between legal substances, legal structures, supporting facilities, society, legal culture, proof, and inter-institutional coordination. The main obstacle does not always lie in the absence of rules, but rather in the implementation of rules in practice. The Fiduciary Guarantee Law has provided a fairly clear legal basis, but its effectiveness depends heavily on the ability of the authorities to apply norms, the completeness of documents from the whistleblower, the existence of evidence, and the legal awareness of the public.

Thus, the factors that affect the enforcement of fiduciary criminal law at the Pohuwato Police are complex and interrelated. To improve the effectiveness of law enforcement, several steps are needed. First, increasing investigators' understanding of the elements of fiduciary crime and its difference from default. Second, strengthening coordination between the police, prosecutor's office, and financing companies. Third, improving the administration of fiduciary guarantees by financing companies. Fourth, increasing the legal awareness of debtors through education since the signing of the agreement. Fifth, strengthening the means of tracking the object of collateral and case documentation. With this step, criminal law enforcement against the transfer of fiduciary guarantee objects can run more effectively, provide legal certainty, and protect the interests of creditors without ignoring the principle of justice for debtors.

CONCLUSION

Criminal law enforcement against the transfer of fiduciary guarantee objects by fiduciaries at the Pohuwato Police Station has not been running optimally. Although Law Number 42 of 1999 has clearly regulated criminal prohibitions and sanctions, its implementation still faces obstacles at the investigation and investigation stage. Many reports have not progressed to the investigation stage due to evidentiary constraints, completeness of documents, tracking of the object of collateral, and differences in understanding between default and fiduciary criminal acts. Therefore, it is necessary to improve the professionalism of investigators, coordinate with financing companies, and strengthen the administration of fiduciary guarantees.

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