

ABSTRAK

ANALISIS KOMPARATIF TERHADAP TINDAK PIDANA PENGHELAPAN BERDASARKAN PASAL 372 UNDANG-UNDANG NOMOR 1 TAHUN 1946 DENGAN PASAL 486 UNDANG-UNDANG NOMOR 1 TAHUN 2023 TENTANG KITAB UNDANG-UNDANG HUKUM PIDANA

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Tindak pidana penghelapan merupakan salah satu bentuk kejahatan terhadap harta kekayaan yang sering terjadi akibat penyalahgunaan kepercayaan dalam suatu hubungan hukum yang sah. Perkembangan hukum pidana nasional melalui Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana membawa perubahan formulasi terhadap tindak pidana penghelapan yang sebelumnya diatur dalam Pasal 372 Undang-Undang Nomor 1 Tahun 1946. Penelitian ini bertujuan untuk menganalisis penerapan Pasal 372 Undang-Undang Nomor 1 Tahun 1946 dan Pasal 486 Undang-Undang Nomor 1 Tahun 2023 serta menganalisis perbandingan kedua ketentuan tersebut dalam Perkara Nomor 232/Pid.B/2024/PN Cms.

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan (statute approach), pendekatan kasus (case approach), dan pendekatan komparatif (comparative approach). Data penelitian diperoleh melalui studi kepustakaan terhadap peraturan perundang-undangan, doktrin hukum, literatur, serta Putusan Nomor 232/Pid.B/2024/PN Cms.

Hasil penelitian menunjukkan bahwa penerapan Pasal 372 Undang-Undang Nomor 1 Tahun 1946 oleh Majelis Hakim telah tepat karena seluruh unsur tindak pidana penghelapan terpenuhi, yaitu adanya penguasaan barang milik orang lain secara sah yang kemudian berubah menjadi penguasaan secara melawan hukum. Apabila dianalisis berdasarkan Pasal 486 Undang-Undang Nomor 1 Tahun 2023, perbuatan terdakwa tetap memenuhi unsur penghelapan. Perbedaan kedua ketentuan terletak pada perubahan terminologi, penyempurnaan rumusan norma, dan pembaruan sistem pidana denda, sedangkan substansi perlindungan terhadap hak milik dan penyalahgunaan kepercayaan tetap dipertahankan.

Kata Kunci: Penghelapan, Pasal 372 KUHP, Pasal 486 KUHP Nasional, Perbandingan Hukum Pidana, Putusan Pengadilan.

ABSTRACT

A COMPARATIVE ANALYSIS OF THE CRIMINAL OFFENSE OF EMBEZZLEMENT UNDER ARTICLE 372 OF LAW NUMBER 1 OF 1946 AND ARTICLE 486 OF LAW NUMBER 1 OF 2023 CONCERNING THE INDONESIAN CRIMINAL CODE

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Embezzlement is one of the forms of crimes against property that frequently occurs due to the misuse of trust within a legally valid relationship. The development of Indonesia's national criminal law through Law Number 1 of 2023 concerning the Criminal Code introduces changes in the formulation of embezzlement offenses, which were previously regulated under Article 372 of Law Number 1 of 1946. This study aims to analyze the application of Article 372 of Law Number 1 of 1946 and Article 486 of Law Number 1 of 2023, as well as to examine the comparison between these two provisions in Case Number 232/Pid.B/2024/PN Cms.

This research employs a normative juridical method using a statutory approach, case approach, and comparative approach. The research data were obtained through a literature review of statutory regulations, legal doctrines, legal literature, and Decision Number 232/Pid.B/2024/PN Cms.

The results of the study indicate that the application of Article 372 of Law Number 1 of 1946 by the Panel of Judges was appropriate because all elements of embezzlement were fulfilled, namely the lawful possession of another person's property, which was subsequently transformed into unlawful possession. When analyzed based on Article 486 of Law Number 1 of 2023, the defendant's actions still fulfill the elements of embezzlement. The differences between the two provisions lie in changes in terminology, refinement of legal formulations, and updates to the criminal fine system, while the substance of legal protection for property rights and the prevention of abuse of trust remains maintained.

Keywords: *Embezzlement, Article 372 Criminal Code, Article 486 National Criminal Code, Comparative Criminal Law, Court Decision.*