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Criminal Sentencing in Fictitious Banking Credit: A Juridical Review

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Abstract: This article discusses the application of the elements of the crime of corruption as well as the form of criminal liability for the main perpetrators and parties participating in the corruption case of fictitious credit application at Bank BJB Semarang Branch based on Decision Number 16/Pid.Sus-TPK/2023/PN.Smg. The research uses a normative juridical method with a legislative approach and a case study of court decisions. The results of the study show that the defendant's actions fulfill the elements of Article 2 and Article 3 of the Law on the Eradication of Corruption, namely abusing authority and using fictitious documents to enrich himself which caused state financial losses of Rp17.7 billion. The criminal act was committed in a collective and organized manner by involving various parties from within and outside the bank. Based on Article 55 paragraph (1) to 1 of the Criminal Code, criminal responsibility is not only given to the main perpetrators but also to parties who participate in the implementation of criminal acts knowingly and actively. The imposition of punishment against the perpetrators reflects an integral legal effort in upholding justice and preventing systemic corrupt practices in the banking sector.

Keywords: *corruption, fictitious credit, criminal liability, Bank BJB.*

INTRODUCTION

Banking is one of the key elements in national economic development that functions as a financial service provider, distributor of funds, and a driver of real sector growth (Abdullah & Putri, 2018). The intermediation function carried out by banking institutions allows people who have excess funds to store them safely and securely, while those who need funds can

obtain financing for productive purposes. This role places banking as an institution that is not only technocratic, but also very strategic in supporting economic stability (Samudra & Firdaus, 2024). When the banking system works optimally, national economic activities will move efficiently through healthy lending, increased household consumption, and support for long-term investment. Therefore, the existence of banking institutions is not only seen from the technical side of operations, but also as a fundamental pillar in the preparation of macro and micro economic policies, including in maintaining the balance of a country's monetary and fiscal balance (Asikin, 2020).

The relationship between banking institutions and the public is built on high trust. This trust is reflected in the willingness of the public to save money in the form of savings, deposits, current accounts, and other financial products managed by banks. In return, the bank is obliged to maintain the security, confidentiality, and usefulness of the entrusted funds, while ensuring that every process of using funds is carried out based on the principles of prudence, efficiency, and accountability (Abdullah & Putri, 2018). Irresponsible management of public funds not only risks causing financial losses, but also damages the joints of economic stability at large. When trust in the banking system is disrupted, domino effects can occur, such as massive withdrawals of funds, liquidity crises, and disruptions to the national payment system. Therefore, the sustainability of a healthy relationship between banks and customers is largely determined by the quality of governance and the integrity of its managers in carrying out the financial intermediation function (Yuhelson, 2018).

However, in practice, it is not uncommon for irregularities to arise in banking management due to weak supervision and low integrity of bank officials. The complexity of the bank's organizational structure and the breadth of authority possessed by management opens up the potential for abuse of power, especially when decision making is not based on the principles of accountability and transparency. This kind of situation is a loophole that is often used to take actions that deviate from the institutional objectives of the bank, such as the distribution of fictitious funds, manipulation of financial statements, and strategic cooperation that only benefits certain parties illegally (Hartiwiningsih, 2013). Deviations committed by bank officials not only violate the professional code of ethics, but also potentially contain criminal elements that have a broad impact on state finances and economic stability. Therefore, it is important to uphold the principles of good corporate governance and build a strong supervisory system so that the integrity of banking institutions is maintained and their economic functions can be carried out effectively.

Corruption in the banking sector is a form of economic crime that is very detrimental to the state, both directly and indirectly. This crime not only threatens the stability of the national financial system, but also undermines public confidence in financial institutions that should be a pillar of economic intermediation (Cahyani et al., 2024). The banking sector has a strategic position in the economic system because of its role in collecting and channeling public funds. Therefore, when banking instruments such as credit, deposits, and financing are misused for corrupt purposes, not only material losses are at stake, but also the legitimacy and sustainability of the financial system as a whole (Sunardi, 2021). In this case, the mode of applying for fictitious credit is one of the most common ways used by criminals to divert funds unlawfully by disguising activities as if they are legal according to bank procedures.

The author also raises juridical issues surrounding the conflict between the authority of corruption investigators and the protection of customer confidentiality as stipulated in the Banking Law (Kurniyati, K., Salasatuna, S., Harjono, D. K., & Yurikosari, 2023). Furthermore, research conducted by Elma Rianti, Syamsuddin Muchtar, and Nur Azisa with the title *"Penegakan Hukum Pidana Korupsi dalam Penyelesaian Tindak Pidana Perbankan yang Berkaitan dengan Usaha, Sikap dan/atau Tindakan Bank sebagai Badan Usaha Milik Negara"*, explains that the criminalization process of banking crimes committed by BUMN has its own characteristics (Rianti et al., 2022). Moreover, research by M. Harris Sofian Hasibuan, Syafruddin Kalo, Hasyim Purba, and Mahmud Mulyadi entitled *"Penerapan Undang-Undang Tindak Pidana Korupsi terhadap Kejahatan Manipulasi Data Agunan dalam Pengajuan Kredit pada Bank BUMD"* explains that there are limitations in the application of the Corruption Eradication Law (Tipikor Law) to banking crimes, especially in cases that only cause losses to banks as regionally-owned enterprises, not directly harming state finances (Hasibuan et al., 2022).

This research aims to analyze in depth the application of corruption criminal law provisions in cases of fictitious credit applications in the regional banking sector, with a special study of Decision Number 16/Pid.Sus-TPK/2023/PN.Smg. The main focus of this research is to examine the juridical construction in proving the elements of the crime of corruption committed through manipulation of credit application documents, as well as evaluating the basis for the judge's consideration in imposing punishment on the defendant. In addition, this research also aims to examine the forms of criminal liability that can be imposed on the main perpetrators, both as direct perpetrators and co-perpetrators, with reference to Article 55 of the Criminal Code.

Based on the background and research objectives, the problem formulation in this article focuses on two main things, namely:

(1) How is the application of the elements of the crime of corruption based on Article 2 and Article 3 of Law Number 31 of 1999 jo. Law Number 20 of 2001 in the case of fictitious credit application as decided in Decision Number 16/Pid.Sus-TPK/2023/PN.Smg ?
(2) What forms of criminal liability can be imposed on the perpetrators, both as main perpetrators and participating perpetrators, in the criminal act of corruption of fictitious credit based on the legal framework of Article 55 paragraph (1) to 1 of the Criminal Code and the relevance of state financial losses according to applicable statutory provisions ?

RESEARCH METHODOLOGY

This research is a normative legal research that examines problems through a juridical approach to applicable positive legal norms. The approaches used include statute approach and conceptual approach (Soekanto, 2014). The statutory approach is used to examine various relevant regulations, such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption, Law Number 10 of 1998 on Banking, as well as criminal provisions in the Criminal Code (KUHP). The conceptual approach is carried out through an examination of the principles and theories of criminal liability, as well as the legal concepts of banking and corruption in doctrinal legal literature. The purpose of

this approach is to understand how legal norms can be applied to criminal offenses committed by banking officials who abuse their authority.

The legal materials used in this research include: primary legal materials in the form of relevant laws and regulations and court decisions, especially Decision Number 16/Pid.Sus-TPK/2023/PN.Smg; secondary legal materials in the form of legal literature, scientific articles, journals, and opinions of legal experts that support the analysis; and tertiary legal materials such as legal dictionaries and legal encyclopedias to strengthen understanding of terminology (Sahir, 2021). Data collection techniques were carried out through a systematic literature study of all legal materials. Furthermore, the data is analyzed descriptively-qualitatively, with an emphasis on legal interpretation and deductive reasoning to answer the formulation of the problems raised (Fadli, 2021). Through this approach, the research aims to compile logical, critical, and in-depth legal arguments regarding the form of criminal liability in corruption cases that occur within the Regional Development Bank of West Java and Banten (BJB) Semarang Branch.

RESULTS AND DISCUSSION

Application of the Elements of Corruption Crime in Bank BJB Fictitious Credit Case (Decision Number 16/Pid.Sus-TPK/2023/PN.Smg)

The crime of corruption that occurred in the form of fictitious credit applications at Bank BJB Semarang Branch, as examined in Decision Number 16/Pid.Sus-TPK/2023/PN.Smg, is a concrete example of the application of the elements of the offense of corruption as stipulated in Article 2 paragraph (1) and Article 3 of Law Number 31 Year 1999 jo. Law Number 20 Year 2001. In this case, the Defendant Agus Hartono together with other parties was legally and convincingly proven to have committed unlawful acts that caused state financial losses through credit applications that were not based on facts and valid documents. The actions were carried out in a structured manner and involved elements of intent and abuse of authority for the purpose of enriching themselves or others (Pujiyono, 2022).

As stated in the legal considerations of the Panel of Judges, it was explained that the Defendant's actions fulfilled the elements of the offense of Article 2 paragraph (1) of the Anti-Corruption Law because he had committed unlawful acts by applying for credit using fictitious data and collateral, thereby disbursing funds from the bank which in reality would never be returned. This shows that the Defendant's actions are not only administrative violations or professional banking ethics, but have entered into the realm of crimes that have caused real losses to state finances (Sutedi, 2007). The loss is proven by the results of the audit and calculation of state losses which is one of the main evidence in this case.

In addition, the Panel of Judges also considered that the elements of Article 3 of the Anti-Corruption Law were fulfilled because the Defendant, as a bank official or a party with influence in the credit application process, had abused his authority by utilizing his position to process and approve loans that were clearly ineligible. This abuse of authority was carried out by approving credit applications that were not supported by business feasibility and real collateral, and without an adequate verification process. This shows the element of intent in the form of active action to create state losses (Danil, 2016).

Table 1. Legal Element Analysis in Corruption Case

Legal Provision	**Legal Provision**	**Legal Provision**	**Legal Provision**
Article 2 paragraph (1)	Unlawful act, causing state financial loss	Use of fictitious data, disbursement of non-repayable credit	Audit report, witness testimony
Article 3	Abuse of authority, intent to benefit oneself/others	Approval of unqualified credit without verification	Defendant's role in approval, fund flow to personal account

Referring to the evidentiary aspect, the Panel of Judges in its decision paid attention to the legal facts obtained from witness testimony, letter evidence, and the confession of the Defendant. All of this evidence consistently leads to the fact that the Defendant knew that the credit was fictitious but continued the process. This is an important basis in proving the existence of malicious intent or dolus from the Defendant, which is an important element in the crime of corruption. In criminal law, the existence of the element of intent (mens rea) is crucial to distinguish criminal acts from mere administrative negligence (Ar et al., 2024).

This decision also confirms that state financial losses as a result of fictitious credit applications can be legitimately declared through an official institution's audit. In this case, the audit results serve as evidence that the state has been harmed by the actions of the Defendant, which means that the formal and material requirements of the element "*harming state finances"* have been met (Ahwan & Susilawati, 2025). The Panel of Judges explicitly stated that funds that should have been used for productive activities through lending were instead channeled for fictitious purposes and did not provide any benefit to the state or to the general public. Considering that what is meant by "detrimental" is the same as being a loss or being reduced, so what is meant by the element of harming state finances is the same as being a loss to state finances or a reduction in state finances. In this case, this element is crucial because the amount embezzled indicates not just negligence, but an act with intent and a specific purpose.

The Panel of Judges also considered that the disbursed funds were not used in accordance with the Credit Agreement. The credit disbursement made by BJB Semarang Branch was found to flow in several suspicious transactions, where funds from the credit account of PT Seruni Prima Perkasa were transferred to a third party allegedly as a supplier, but then the funds actually moved to a BCA Account in the name of the Defendant Agus Hartono. This is clear evidence of engineering in the flow of funds to disguise unlawful acts. The facts of the trial reveal that the State's losses due to the actions of the Defendant AGUS HARTONO reached a very significant figure of Rp17,706,746,943. This figure not only shows the scale of the loss, but also shows how great the systemic impact on public confidence in banking institutions if not dealt with firmly. In the Indonesian criminal law system, the amount of loss is one of the aggravating factors in the consideration of punishment.

The Panel of Judges based the calculation of state financial losses on investigative audits and expert testimony, as well as relying on Article 1 paragraph (22) of Law Number 1 Year 2004 concerning State Treasury which states that state / regional losses are shortages of money, securities, and goods, which are real and certain in amount as a result of unlawful acts either intentionally or negligently. This emphasizes that the state loss has been proven real and not speculative. Thus, based on legal facts and official audits, the element of real or tangible state financial losses of Rp17,706,746,943 (seventeen billion seven hundred six million seven hundred forty-six thousand nine hundred forty-three rupiahs) has been fulfilled in this case. This means that not only the formal aspects of the elements of the offense are fulfilled, but also the material elements have been proven in an open and accountable trial.

To relate this case to the relevant theories and legal framework, the following matrix presents the linkage within the article's content:

Table 2. Article Linkage Matrix

Conceptual Focus	Legal Framework	Case Linkage
Abuse of authority	Article 3 of the Anti-Corruption Law	Role of Agus Hartono in approving illegal credit
Malicious intent (mens rea)	Criminal law doctrine	Defendant's knowledge of the fictitious nature of the credit
State financial loss	Article 1 paragraph (22) of the State Finance Law	Dual sanctions: imprisonment and restitution for losses

The Panel of Judges, in imposing a criminal verdict against the Defendant, carefully weighed both aggravating and mitigating circumstances. One of the key aggravating factors identified was that the Defendant’s actions ran counter to the government’s ongoing efforts to combat corruption, which has been categorized as an extraordinary crime due to its pervasive and systemic nature. This judicial consideration underscores the critical importance of both preventive and repressive dimensions in anti-corruption policy. From a preventive standpoint, leniency or failure to impose proportionate penalties in such cases may foster a culture of impunity and normalize corrupt behavior, particularly within sensitive sectors like banking and public finance (Damping, 2019). Repressively, stern legal consequences serve as a deterrent and reaffirm the legal system's commitment to uphold accountability, especially among actors in positions of trust. The Defendant’s actions not only caused significant financial harm to the state but also represented a betrayal of institutional integrity, thus eroding public confidence in the financial system and weakening the moral authority of public governance. Therefore, the aggravating circumstance highlighted by the court reflects a broader institutional imperative: that criminal justice must not only punish wrongdoing but also play a strategic role in preserving the credibility and legitimacy of state institutions amidst the ongoing battle against corruption (Hermansyah, 2019).

Meanwhile, the Panel of Judges also acknowledged certain mitigating circumstances in favor of the Defendant, namely the fact that the Defendant had no prior criminal record and conducted himself respectfully throughout the trial proceedings. These considerations reflect the court’s adherence to the principle of individualized sentencing, where the personal history and demeanor of the accused are taken into account to ensure a fair and proportionate

judgment. However, the court determined that these mitigating factors were insufficient to outweigh the gravity and systemic consequences of the Defendant's actions. The misuse of fictitious credit facilities and manipulation of banking procedures resulted not only in substantial financial losses to the state but also in the erosion of institutional credibility within the banking sector. In view of this, the Panel of Judges upheld the need for a firm penal response by imposing a significant term of imprisonment along with additional sanctions in the form of restitution payments. This dual sanction serves both retributive and restorative purposes: it holds the Defendant accountable for his conduct while also seeking to recover state losses and deter similar offenses in the future. The court's judgment thus reflects a calibrated approach that balances individual circumstances with the broader need to uphold the integrity of public financial institutions and the rule of law (Novira, 2024).

This decision also bases its legal considerations on Article 18 of the Anti-Corruption Law which allows the state to seize assets or compensation for state financial losses. The application of this article reflects the principle of restorative justice in corruption criminal law, namely that in addition to the perpetrator being sentenced to imprisonment, he is also required to return state losses. In this context, justice is not only seen from the aspect of punishment against the perpetrator, but also the recovery of state losses that have been caused. From these considerations, it can be concluded that the application of the elements of the crime of corruption in Decision Number 16/Pid.Sus-TPK/2023/PN.Smg has been carried out thoroughly and in accordance with the applicable positive legal framework. The Panel of Judges has successfully integrated normative and factual approaches in proving that the Defendant's actions fulfill the elements of Article 2 and Article 3 of the Anti-Corruption Law, thus providing an important precedent for law enforcement in corruption cases in the banking sector.

In addition to the evidentiary assessment of the material elements of the offense, this case underscores the importance of upholding the principle of individual criminal liability in the context of corporate banking crimes. Although the corruption offense occurred within a financial institution, liability does not automatically attach to the institution itself, but rather to the individuals who played a central role in the unlawful acts. In this case, Agus Hartono, who held the authority to approve credit applications, was deemed the principal actor who could be held criminally responsible, having exceeded his authority for personal gain. The panel of judges also emphasized the presence of collusion between the defendant and other parties, such as fictitious loan applicants and negligent or complicit bank personnel, indicating a structured and systematic modus operandi. This reveals a pattern of organized corruption, which is not merely a spontaneous or incidental act, but a deliberate exploitation of systemic weaknesses in the banking system to facilitate criminal conduct. Such a phenomenon reflects a latent danger that must be addressed within both public and private financial governance frameworks (Wahyuni, 2017).

Furthermore, this decision reflects the higher degree of culpability (*schuld*) attributed to perpetrators of corruption in the banking sector. These individuals not only violate internal banking regulations but also breach public trust an essential element in financial systems. When a bank official abuses their authority for personal or third-party benefit, the offense does not merely cause material loss to the state but also damages public confidence in the

national financial system. From the perspective of penal theory, the court applied a hybrid approach combining retributive and restorative justice (Sudaryono & Surbakti, 2017). The custodial sentence imposed on the defendant represents retribution for his reprehensible conduct, while the additional penalty of restitution (replacement payment) aligns with restorative justice by aiming to recover the state's financial loss. Such a dual approach is increasingly relevant in corruption cases, as criminal punishment should not only serve as a deterrent but also restore public and state conditions affected by the offense.

The court also progressively applied Article 18 of the Indonesian Anti-Corruption Law (UU Tipikor), obligating the defendant to pay compensation equal to the illicit gains received. In judicial practice, the application of this provision serves as a litmus test for the effectiveness of the state asset recovery system. In this decision, the imposition of a replacement payment demonstrates that punishment extends beyond incarceration to encompass the recovery of national economic losses. This reflects a legal commitment to protecting public funds from exploitation by corrupt bureaucrats and actors. This ruling is also commendable from an evidentiary standpoint, particularly in the use of investigative audits as a form of evidence. The audit, conducted by a credible official agency, was utilized by the court to establish the existence of state financial losses. In Indonesia's criminal justice system which follows the principle of at least two pieces of evidence and judicial conviction an audit report carries substantial probative weight due to its objective and systematic methodology. This illustrates the essential role of financial forensic tools in substantiating the element of "state financial loss" under Articles 2 and 3 of the Anti-Corruption Law (Syauket & Wijanarko, 2024).

Moreover, the case sets an important precedent for formulating anti-fraud policies within the banking sector. Fictitious loans are unlikely to occur without flaws in internal verification and supervisory systems. The fact that such credit was disbursed based on falsified documents suggests that the bank's control mechanisms failed. Accordingly, this decision also carries a normative message to financial institutions to strengthen internal controls, enhance due diligence capacity, and enforce prudent banking principles in credit issuance. Sociologically, the case reveals that abuse of authority in banking can have far-reaching consequences on public trust, economic stability, and institutional legitimacy (Mulyani, 2015). Public perception of impunity in corruption cases may lead to disillusionment with financial institutions and reduce public participation in the formal economy. Hence, this ruling serves not only a punitive function but also affirms the role of criminal justice in safeguarding institutional integrity and national economic order.

Finally, from an academic perspective, Decision Number 16/Pid.Sus-TPK/2023/PN.Smg represents a valuable case study in the teaching of economic criminal law and banking law. It highlights the intricate connection between criminal law and financial regulation, demonstrating how fundamental legal principles such as *nullum crimen sine lege* (no crime without law) are applied in judicial practice. For legal scholars and practitioners, this case offers a concrete illustration of the systematic application of criminal elements and the interpretation of justice principles in sentencing white-collar criminals. This case is a clear reflection that fictitious credit in banking institutions, if carried out with the intention to benefit oneself or others and cause state losses, is not merely an administrative violation, but has fulfilled the elements of a corruption crime. Therefore, strengthening the bank's internal

control system and consistent law enforcement against perpetrators of corruption must continue to be prioritized as part of efforts to create a healthy, transparent and accountable financial system (Huda, 2021).

In institutional terms, the case also underscores the importance of inter-agency coordination in combating corruption in the banking sector. The success of the prosecution in this case was supported by collaborative efforts between law enforcement authorities, financial regulatory bodies, and state audit institutions. This demonstrates that the complexity of economic crimes ”especially those involving sophisticated financial schemes” requires a multi-sectoral response rooted in data sharing, procedural transparency, and legal consistency. Strengthening such inter-institutional cooperation is crucial not only for effective prosecution but also for the long-term prevention of systemic financial abuse, particularly in state-influenced or publicly accountable banking institutions.

Criminal Liability of Principal and Participating Actors in the Bank BJB Fictitious Credit Corruption Crime

Criminal responsibility is a fundamental principle in the Indonesian criminal law system which emphasizes that a person can only be convicted if they fulfill the elements of legal guilt or schuld beginsel (Rusianto, 2016). In the criminal act of corruption that occurred in the case of Agus Hartono related to the submission of credit using a fake Purchase Order (PO) to Bank BJB Semarang Branch, the form of criminal liability must be thoroughly analyzed against the main perpetrators and participating parties in accordance with Article 55 paragraph (1) to 1 of the Criminal Code and the provisions in the Corruption Eradication Law (Fahrurrozi & M Gare, 2019). The decision of the Corruption Court at the Semarang District Court dated July 18, 2023 stated that the Defendant Agus Hartono was legally and convincingly proven guilty of committing the crime of corruption jointly, violating Article 2 jo. Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 jo. Article 55 paragraph (1) to 1 of the Criminal Code. The defendant was sentenced to imprisonment for 10 years and 6 months, a fine of Rp400 million in lieu of 3 months imprisonment, and was required to pay restitution of Rp14.7 billion. If not paid within 1 month after the verdict is legally binding, the assets will be confiscated, or if it is insufficient, it will be replaced by 4 years in prison.

The imposition of this penalty reflects a comprehensive legal consideration of the Defendant's active role as the main perpetrator as well as part of a malicious collaboration that led to the criminal act of corruption. In the verdict, the panel of judges explicitly imposed a prison sentence of 10 years and 6 months on the Defendant as well as a fine of Rp400,000,000 (four hundred million rupiah), with the provision that if the fine is not paid, it will be replaced by imprisonment for 3 (three) months. This subsidiary provision is an alternative form of punishment that is commonly applied in Indonesian criminal law practice to ensure a deterrent effect and certainty of execution of the fine. From the legal facts in the trial, Agus Hartono applied for credit to Bank BJB using a fictitious PO. The credit was approved and disbursed even though there was no real activity as the basis for the disbursement of funds. The crime was committed through document manipulation and

conspiracy with the bank, which enabled the disbursement of credit without a valid basis. This act was not only committed by Agus Hartono as a credit applicant, but also involved internal bank parties who passed the process illegally.

As the main perpetrator, Agus Hartono fulfills the element of "every person" in Article 2 of the Anti-Corruption Law, namely abusing legal means to enrich himself or others which results in state financial losses. This criminal offense is clearly proven to be a form of systematic unlawful acts and committed with malicious intent (mens rea). These acts are not only committed individually, but also intertwined with the involvement of other parties, causing corruption crimes to become complex and organized. Referring to the perspective of criminal law, Article 55 paragraph (1) to 1 of the Criminal Code contains the concept of deelneming or participation in a criminal offense. This article recognizes several forms of involvement, namely direct perpetrators (pleger), perpetrators who order (doen pleger), perpetrators who participate (mede pleger), and instigators (uitlokker). In legal doctrine, these four forms have equal liability implications, as long as the element of involvement can be proven juridically. Therefore, the determination of the form of participation has consequences in the imposition of punishment (Ponglabba, 2017).

As stated by Prof. Roeslan Saleh, participation in a criminal offense does not have to be proven through identical acts of execution. What is more important is the existence of close cooperation in the implementation of the criminal offense. This cooperation can be realized in the form of supporting each other, providing support, or playing a role in a series of actions that lead to the criminal offense. Thus, the technical separation of roles is not essential, but the integration of will and action is the benchmark. In this case, Agus Hartono as President Commissioner of PT Seruni Prima Perkasa did not act alone. Coordination was carried out with a number of parties, including Dion Prayudha Wardhana as Director, Budinata Widjaja as Commissioner, as well as external parties such as Meidiana Indriati from PT Tanjung Jati B Power Service, who confirmed the PO without basis, and Saifullah Zulkarnein from KJPP Pung Zulkarnein who set the guarantee value unreasonably. Parties from Bank BJB itself also played an active role in smoothing out this fictitious credit, from the Account Officer to the Region 5 Credit Committee.

Thus, the form of criminal liability in the case of Agus Hartono and Bank BJB's fictitious credit includes liability as the main perpetrator against Agus Hartono who actively applied for credit using fake documents for personal gain. In addition, there is also responsibility as a participant for internal elements of Bank BJB who approved and facilitated the disbursement process without a legal basis, all of which fulfill the elements in Article 55 paragraph (1) to 1 of the Criminal Code as a legal basis for aggravating collective responsibility. Comprehensive and proportional application of criminal provisions against all parties involved is essential to uphold justice, restore state finances, and prevent the recurrence of similar practices in the future (Arifin, 2024). Strict law enforcement at all levels of perpetrators, both main and participating actors, reflects a commitment to eradicating corruption in the banking sector. Apart from being a form of legal accountability, this is also a systemic lesson for regional financial institutions to be more transparent, accountable, and resistant to manipulative practices that harm the state.

Table 3. Comparative Criminal Liability in Fictitious Credit Corruption Cases in the Banking Sector

Country	Main Legal Framework	Liability of Main Perpetrator	Liability of Participant/Accomplice
Indonesia	- Anti-Corruption Law (Law No. 31/1999 as amended by Law No. 20/2001) - Article 55(1) of the Criminal Code	Prosecuted under Articles 2 or 3 of the Anti-Corruption Law for abuse of authority	Equal liability if proven as *medepleger*, *doen pleger*, or *uitlokker*
Malaysia	- Malaysian Anti-Corruption Commission Act 2009 (MACC Act) - Penal Code Sections 107–109	Main perpetrator may face up to 20 years imprisonment and fines (minimum 5× the loss/bribe)	Conspirators or abettors receive penalties equivalent to the main perpetrator
Singapore	- Prevention of Corruption Act (PCA) - Penal Code Sections 109–120B	Main perpetrator faces fines and up to 7 years imprisonment or more	Instigators/abettors receive equivalent penalties
Netherlands	- Dutch Criminal Code (Wetboek van Strafrecht) Articles 47–51	Can be prosecuted as an individual or corporation (*corporate liability*)	Participants (*medepleger, doen pleger, uitlokker*) face equivalent sanctions
United States	- Foreign Corrupt Practices Act (FCPA) - Federal Conspiracy Statutes (18 U.S.C. § 371)	Main perpetrator may face up to 20 years imprisonment and substantial fines	Conspirators and aiders/abettors are prosecuted under conspiracy provisions

In assessing criminal liability in corruption offenses involving multiple actors, as exemplified in the Agus Hartono case, it is essential to also consider the role and responsibility of corporations within the framework of modern criminal law. Although the primary focus in this case was directed at individual perpetrators, the doctrine of corporate criminal liability remains relevant, particularly where a legal entity benefits directly or indirectly from the commission of a crime by its executives. In this instance, although PT Seruni Prima Perkasa was not prosecuted as a legal entity, the fictitious purchase orders issued under its name were instrumental in facilitating the fraudulent loan, thereby warranting scrutiny from a broader criminal accountability perspective. Furthermore, the case illustrates how the *fraud triangle* operates in white-collar crimes within the financial sector. The three core elements "pressure, opportunity, and rationalization" are readily observable. Pressure may have stemmed from personal financial needs or corporate liquidity demands. Opportunity was created by weak internal controls and verification procedures, along with informal relationships between the loan applicant and bank officials. Rationalization likely

arose from a belief that such conduct was tolerable or normalized, especially in the absence of immediate, tangible harm to the public. These elements, when combined, foster an environment conducive to systematic and structural corruption.

A systemic approach is also required to understand why Bank BJB's internal control mechanisms failed to prevent the offense. The failure cannot be solely attributed to individual negligence; it may reflect deeper deficiencies in the institution's compliance culture. The absence of an effective whistleblowing system, lack of independent oversight in credit approval, and potential conflicts of interest in decision-making processes all contributed to the facilitation of the offense. As such, institutional reforms must be prioritized to ensure more responsive, independent, and preventative internal auditing and supervisory mechanisms. This case also invites reflection on the regulatory limitations and external oversight of regional development banks (BPD), which, although autonomous under the law, carry substantial public responsibilities. The Financial Services Authority (OJK) and the Audit Board of Indonesia (BPK) play critical roles in conducting comprehensive evaluations of governance practices within these institutions, especially those exhibiting patterns of moral hazard. Cases such as this should catalyze regulatory tightening and inter-agency synergy to strengthen financial safeguards for public funds (Suyanto, 2018).

From a sentencing perspective, the imposition of criminal liability in this case highlights the importance of proportionality. The panel of judges imposed both imprisonment and additional penalties "fines and restitution" to create a deterrent effect while enabling recovery of state losses. However, in practice, the enforcement of restitution often encounters significant obstacles, particularly when the convicted party's assets are insufficient or have already been transferred (Agustuti & Irawan, 2024). Therefore, the state must enhance its asset recovery mechanisms through proactive and integrated strategies, including the application of anti-money laundering legislation as a complementary legal tool. Moreover, offenses of this nature should not be treated as ordinary legal violations, but rather as fundamental breaches of institutional integrity with a high potential to erode public trust. Accordingly, punitive measures must be accompanied by institutional recovery efforts, including governance reforms, integrity-based screening of bank officials, and the inclusion of civil society in the social oversight of public financial institutions. Only through such measures can financial institutions reclaim their foundational role as trusted and accountable providers of public services.

CONCLUSION

Based on the results of the analysis of Decision Number 16/Pid.Sus-TPK/2023/PN.Smg, the application of the elements of the crime of corruption in the case of applying for fictitious credit to Bank BJB has met the qualifications of Article 2 and Article 3 of Law Number 31 of 1999 jo. Law Number 20 of 2001, namely unlawful acts committed to enrich themselves or others and harm state finances through abuse of authority and legal means of banking. The defendant as the main perpetrator is proven to have used fake documents and collaborated with various parties to obtain credit illegally, so that the element of state loss of Rp17.7 billion can be juridically constructed as a direct result of the criminal act. Furthermore, the form of criminal liability imposed refers to Article 55 paragraph (1) to 1

of the Criminal Code, which includes not only the main perpetrator but also the parties who actively or passively participate in a series of interrelated actions, so that all perpetrators can be held collectively criminally responsible in accordance with the degree of their respective roles and contributions in this fictitious credit corruption crime.

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