Juridical Analysis of the Strength of Electronic Evidence in Handling the "Trusted" Online Arisan Fraud Handling (Research Study at the Tanjung Pinang Police)

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ABSTRACT

The legal arrangement for handling online fraud in the ITE Law does not limitatively say "fraud" but is related to elements of consumer losses and elements of electronic transactions. Then Article 28 paragraph 1 will complement Article 378 of the Criminal Code when it is a criminal act of fraud with the understanding that Law No. 11 of 2008 is an extension of the Criminal Code if the crime is committed with information technology or electronic devices. The phrases "lie" and "mislead" are two different things. In the phrase "spreading false news" which is regulated is the action, while in the word "misleading" it is regulated as a result of this act which makes people have wrong/wrong views.

Keyword : *Acts of online gathering, Fraud, Criminal..*

Preliminary

Restrictions on people's behavior as outlined in legal provisions are limitations that must be enforced in the administration of order in society. The series of restrictions on the activities of legal subjects is regulated in criminal law provisions. The definition of criminal law is the rule of law that regulates violations and crimes against the public interest.

Criminal acts in the form of violations which are then subject to threats and punishments that result in the perpetrators of suffering or tormenting those who violate. Violation itself has the meaning as a minor criminal act and the threat of punishment is in the form of a fine or imprisonment, while crime is a serious criminal act. Criminal comes from the word straf (Dutch), which basically can be said to be a suffering (misfortune) which is intentionally imposed / imposed on someone who has been proven guilty of committing a crime.

Activities carried out by humans constitute the right to freedom of action but are limited by law and in essence what is a human choice is not a problem as long as it does not violate the rule of law. One of the main functions of law is to reduce the large number of variations and variations of human behavior into an order that is acceptable in number and form. With the law, in social life, every member of the community whose interests are disturbed will get protection.

The legal mechanism is working under coercion which is marked by the existence of strict, clear/certain sanctions and the availability of equipment to implement it, while morality uses inner strength (if there is a sanction from the community, it is not regulated with certainty, clearly and supporting equipment is not available). Law and society, which are the fabric of this circle, then give birth to a thought and understanding of law, jurisprudence and legal rules..

The criminal context cannot be separated from the rule of law that is widespread and developing according to Satjipto Rahardjo Legal science is a science that seeks to examine the law. Legal science covers and discusses all matters related to law. Legal science is the object of law itself. Such is the breadth of the problem covered by this

science, that it has provoked the opinion of people to say that "the boundaries cannot be determined". The science of law developed and then gave birth to one of them, criminal law.

Criminal Law is included in public law. According to Simorangkir, criminal law has two meanings. Understanding objectively and subjectively:

a. Criminal law (subjective), all prohibitions or orders, which result in the imposition of suffering or torture as punishment by the state to anyone who violates it. This law is also called positive criminal law (ius peonale).
b. Objective criminal law in a broad sense includes material criminal law (containing a description of criminal acts, who can be punished, the amount of punishment) and formal criminal law (how to maintain and implement material criminal law), in a narrow sense only material criminal law.

Criminal law according to C.S.T. Kansil is a law that regulates violations and crimes against the public interest, actions that are threatened with punishment which constitute suffering or torture, then he concludes that criminal law is not a law containing new norms, but only regulates violations violations and crimes against legal norms concerning the public interest.

Meanwhile, according to Simons, criminal law is::

a. All prohibitions or orders that the State threatens with misery are a “criminal” if they are not obeyed;
b. The whole regulation that stipulates the conditions for the imposition of a criminal and;
c. All of the provisions that provide the basis for the imposition and determination of a crime.

According to Van Hamel, criminal law is the entire basis and rules adopted by the state in its obligation to enforce the law, namely by prohibiting what is contrary to the law (onrecht) and imposing suffering (suffering) on those who violate the prohibition.

Criminal law is defined by Mezger as a rule of law, which binds to an act that fulfills certain conditions for a criminal consequence. What is meant by an act that meets certain conditions is an act committed by a person who allows the provision of a punishment. Such an act can be called an act that can be punished or an evil act (Verbrechen or crime).

The increasing level of crime in human activities gave birth to the development of criminal law as the one that regulates the limits of human activities. the existence of a criminal division into 2 (two) parts, namely general and special crimes. The establishment of a special punishment is the formation of provisions that are specific to violations which have a broad impact on both the victim and the extent of the consequences of the violation that have an impact on other aspects of life.

Based on the elements of the criminal act of fraud contained in the formulation of Article 378 of the Criminal Code above. So R. Sugandhi put forward the notion of deception that: "Fraud is someone's action by deceiving a series of lies, false names and false circumstances with the intention of benefiting oneself with no rights.

A series of lies is an arrangement of false sentences arranged in such a way which is a story of something as if it were true. The definition of fraud according to the opinion above, it is clear that what is meant by fraud is a ruse or a series of lies so that someone feels deceived by what seems to be true. Usually someone who commits fraud, is explaining something that seems true or happened, but in fact his words are not appropriate.

The thing that becomes an obstacle in handling online fraud is the activities carried out in electronic form or in the form of technology-based programs. One of the developments in handling crimes carried out by activities using electronic devices is one form of handling crime that follows the dynamics of the times. Prior to Law Number 8 of 2008 concerning Information and Electronic Transactions, there were actually several laws that recognized electronic evidence, but they were only used in special criminal acts, among others, Law Number 8 of 1997 concerning Company Documents. , Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, Law Number 15 of 2003 concerning Eradication of Criminal Acts of Terrorism, and Law Number 25 of 2003 concerning Money Laundering. However, this is still a debate among law enforcers such as judges, prosecutors, and advocates, because of the position of electronic evidence in the Criminal Procedure Code (KUHAP). In the dictionary of the Legal Dictionary, "evidence" has the meaning of something that states the truth of an event, something to convince the truth of a proposition or position. Meanwhile, according to the Big Indonesian Dictionary, it comes from the word "proof" which means something that states the truth of an event; real information; sign.

Meanwhile, "evidence" or in Dutch Bewijsmiddel has the meaning of various information needed for the judge's assessment: whether it is known by the judge because of his position, or presented by the parties to him. The evidence referred to by law is for the criminal field, namely the knowledge of a personal judge, testimony of a suspect, testimony of a witness, testimony of an expert, documentary evidence; while for the civil sector, namely letter evidence, witness evidence, evidence by suspicion, confession, and oath.

Evidence is a translation of the Dutch language, bewijs which is defined as something that states the truth of an event. In the legal dictionary, bewijs is defined as everything that shows the truth of certain facts or the untruth of other facts by the parties in a court case, in order to provide material to the judge for his assessment. Then the word "evidence" is added with the prefix "pe" and the suffix "an" which means "process", "action", "how to prove", which in terms of proof means an attempt to show whether or not the defendant is right or wrong in court. Evidence in Dutch is called bewijsmiddelen which means evidence used to prove that a legal event has occurred. Evidence is everything that has to do with an act, where the evidence can be used as evidence.

Problem

1. How is the Legal Regulation on the Strength of Electronic Evidence in Handling the "Trusted" Online Arisan Fraud?
2. How is the Implementation and Implementation of Evidence from Electronic Evidence Tools in Handling the Crime of "Trusted" Online Arisan Fraud?
3. What are the factors that become obstacles/obstacles as well as solutions to Electronic Evidence Evidence in Handling "Trusted" Online Arisan Fraud

Research methods

The type of research used in writing this thesis is normative-empirical juridical, namely legal research carried out by examining library materials or secondary data as the basis for research by conducting a search on regulations and literature related to the problems studied. The subject of the study is the factual implementation or implementation of positive legal provisions and contracts in every particular legal event that occurs in society in order to achieve the stated goals. The normative juridical method is carried out by examining and interpreting theoretical matters concerning principles, conceptions, doctrines and legal norms. The empirical juridical method is carried out with research in the field aimed at the application of law.

Results and Discussion

Legal Regulations on the Strength of Electronic Evidence in Handling "Trusted" Online Arisan Fraud

A. Overview of Criminal Law

Criminal law is an important tool in crime prevention, and crime can be prevented and prosecuted. The countermeasure is the application of sanctions against perpetrators of criminal acts that can be given sanctions. Criminal sanctions are the best tools or means available, to deal with threats from acts that have violated the established regulations, as well as sanctions will provide a deterrent effect on perpetrators of crime.

The definition of criminal law is the rule of law that regulates violations and crimes against the public interest. Such offenses and crimes are punishable by punishment which constitutes suffering. Violation itself has the meaning as a minor criminal act and the threat of punishment is in the form of a fine or imprisonment, while crime is a serious criminal act. Criminal comes from the word straf (Dutch), which basically can be said to be a suffering (misfortune) which is intentionally imposed / imposed on someone who has been proven guilty of committing a crime.

According to Moeljatno in Muladi and Barda Nawawi Arief, the term punishment derived from the word straf is a conventional term. Moeljatno uses an unconventional term, namely criminal. The sentence or punishment imposed and what actions are punishable by a crime must first be listed in the criminal law. A principle called nullum crimen sine lege, which is stated in Article 1 paragraph (1) of the Criminal Code. The location of the difference between the terms punishment and criminal, is that a crime must be based on the provisions of the law (criminal), while punishment is broader in meaning, including for example, a teacher who canes a student, a parent who twists his child's ear, all of which are based on propriety, courtesy, decency and habit. These two terms also have something in common, namely both have a background in values, good and bad, polite and disrespectful, allowed and prohibited.

According to Andi Hamzah, Indonesian legal experts distinguish the term punishment from criminal, which in Dutch is known as straf. The term punishment is a general term used for all types of sanctions both in the realm of civil, administrative, disciplinary and criminal law, while the term criminal is defined narrowly, namely only sanctions related to criminal law.

B. Internal Supervision of Regional Government Administration

In government regulations, we recognize the existence of a Development Supervision institution, both internal and external. At the ministerial level, we know that there is an Inspector General (Inspectoratral General), as an internal supervisor. While the external supervisors are BPK and BPKP. Meanwhile, in the

Provincial and Regency Governments, internal supervision is carried out by the Regional Inspectorate which is the supervisory element for the implementation of Regional Government. The Regional Inspectorate is led by an Inspector and in carrying out its duties is directly responsible to the Governor or Regent and technically administratively receives guidance from the Regional Secretary, is appointed and dismissed by the Governor or Regent in accordance with statutory provisions/regulations.

The Regional Inspectorate has the functions of planning supervision programs, formulating policies and facilitating supervision, inspection, investigation, testing and assessment of supervisory duties, inspections and carrying out other tasks assigned by the Regent in the field of supervision.

To carry out its functions, the Inspectorate has the task of carrying out supervision of the implementation of government affairs, carrying out supervision of the implementation of economic affairs, carrying out supervision of the implementation of social welfare affairs, carrying out supervision of the implementation of financial and asset affairs and carrying out administrative activities.

The Regional Inspectorate as the Internal Supervisory Apparatus of the Regional Government has a very strategic role and position both in terms of aspects of management functions and in terms of achieving the vision and mission as well as government programs. In terms of the basic functions of management, it has an equal position with the planning function or the implementation function. Meanwhile, in terms of achieving the government's vision, mission and programs, the regional inspectorate is a pillar that functions as a supervisor as well as a guard in the implementation of the programs contained in the Regional Revenue and Expenditure Budget.

The Implementation of the Inspectorate of the Riau Islands Province Inspection on the Regional Revenue and Expenditure Budget

A. Implementation of Inspections by Government Internal Control Apparatus

Implementation of the inspection as part of the supervision based on Government Regulation Number 79 of concerning Guidelines for the Guidance and Supervision of the Implementation of Regional Government in accordance with Article 24, namely:

1. Supervision of government affairs in the regions is carried out by the Government Internal Supervisory Apparatus in accordance with their functions and authorities.
2. The Government Internal Supervisory Apparatus as referred to in paragraph (1) is the Departmental Inspectorate General, Non-Departmental Government Institution Supervision Unit, Provincial Inspectorate, and Regency/Municipal Inspectorate.

Based on Article 1 point 4 of Government Regulation Number 60 of 2008 concerning the Government's Internal Control System, the Provincial Inspectorate is the government's internal supervisory apparatus that is directly responsible to the governor. This states that the Provincial Inspectorate is part of the government's internal control apparatus.

Government Internal Supervisory Apparatus (APIP) is a Government Agency that has the main task and function of supervising, and consists of:

1. The Financial and Development Supervisory Agency (BPKP) which is responsible to the President;
2. Inspectorate General (Itjen) / Main Inspectorate (Ittama) / Inspectorate responsible to the Minister / Head of Non-Departmental Government Institutions (LPND);
3. The Provincial Government Inspectorate who is responsible to the Governor, and;
4. Regency/City Government Inspectorate responsible to the Regent/Mayor.

Internal control is the entire process of auditing, reviewing, monitoring, evaluating, and other supervisory activities in the form of assistance, socialization and consulting on the implementation of organizational tasks and functions in order to provide adequate assurance that activities have been carried out in accordance with established benchmarks effectively and efficiently. efficient for the benefit of the leadership in realizing good governance.

The understanding of the working procedures of the Government Internal Supervisory Apparatus (APIP) consists of:

a. Audit is the process of problem identification, analysis, and evaluation of evidence that is carried out independently, objectively and professionally based on auditing standards, to assess the truth, accuracy, credibility, effectiveness, efficiency, and reliability of information on the implementation of duties and functions of government agencies.
b. A review is a review of the evidence of an activity to ensure that the activity has been carried out in accordance with the provisions, standards, plans, or norms that have been set.

c. Monitoring is the process of assessing the progress of a program/activity in achieving the goals that have been set
d. Evaluation is a series of activities comparing the results/achievements of an activity with predetermined standards, plans, or norms, and determining the factors that influence the success or failure of an activity in achieving its goals.
e. Performance audit is an audit of the implementation of the duties and functions of government agencies consisting of an audit of economic aspects, efficiency, and an audit of effectiveness aspects.
f. An investigative audit is the process of systematically searching, finding, and collecting evidence with the aim of revealing whether or not an act and its perpetrators occurred in order to take further legal action.
g. Auditor is a civil servant (PNS) who has the functional position of auditor and/or other party who is given full duties, authority, responsibility and rights by the official authorized to carry out supervision in government agencies for and on behalf of the Government Internal Supervisory Apparatus (APIP). .
h. Investigative auditors are auditors who meet the qualifications and are authorized to conduct investigative audits.
i. Auditi is a person/government agency audited by the Government Internal Supervisory Apparatus (APIP).
j. Government agencies are elements of central government administrators or elements of regional government administrators.
k. Organization is a Department/LPND/Ministry/Local Government or institution which according to the laws and regulations is appointed as the superior of the leadership of the Government Internal Supervisory Apparatus (APIP).

B. Definition of Victims of General Crimes

Other important matters that deserve attention in standardizing witness protection are related to the provisions of Article 1 point 1 of Law no. 13 of 2006 provides the understanding that a witness is a person who can provide information for the purpose of investigation, investigation, prosecution, and examination in court regarding a criminal case that he has heard himself, seen himself, and/or experienced himself. This formulation still confuses the definition of witnesses in the Criminal Procedure Code which focuses on “evidence value” with people who can be protected by the Witness Protection Agency.

The definition of a witness according to Article 1 number 26 of the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) is: "A person who can provide information for the purposes of investigation, prosecution and trial regarding a criminal case which he himself heard, saw and experienced. alone.”

The formulation contained in the KUHAP above regarding witnesses is different from the formulation contained in Government Regulation Number 44 of 2008 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims. This difference can be seen in the scope of "investigation", where in the Criminal Procedure Code the witness is not included in the scope of the investigation and vice versa. This government regulation provides the full definition of a witness as follows: "A person who can provide information for the purposes of an investigation, investigation, prosecution, and examination in a court hearing about a criminal case which he himself heard, saw, and/or experienced himself.”

In practice this concept is growing, because it turns out that people who only know something related to criminal acts have been included in the witness category, so they can be questioned for that. On the other hand, in some special (crime) laws, such as the Corruption Crime Act (Law No. 31/1999), it is now replaced by Law no. 20 of 2001, the Narcotics Law (Law No. 22 of 1997), the Psychotropic Law (Law No. 5 of 1997), the Law on Money Laundering (Law No. 15 of 2000 is now replaced with Law No. 25 of 2003, the Law on the Eradication of Criminal Acts of Terrorism (Law No. 15 of 2003) put forward the terms witness and reporter.

Globally, in practice, there are often several types of witnesses. There are four types of witnesses proposed in court, namely witnesses proposed by a suspect or a defendant, who is expected to provide information that is favorable to him, in French also called Witness A De Charge and witnesses proposed by the public prosecutor are called Witness A Charge. namely the witness whose testimony incriminated the defendant, and witness De Auditu, namely the witness who did not witness and experience himself but only heard from other people, there were also witnesses who did not incriminate and did not relieve the defendant. The presence of this witness is usually at the request of the judge and the public prosecutor to an expert to reveal the truth in accordance with

their respective fields of knowledge. This witness does not side with anyone because his job is only to provide information in accordance with the profession that is his field of duty. Witnesses of this group are called expert witnesses.

According to its nature and existence, the testimony of a witness A Charge is the testimony of a witness with an incriminating nature for the defendant and is usually submitted by the Prosecutor/Public Prosecutor. Meanwhile, witness A de Charge is the testimony of a witness with the nature of mitigating the defendant and commonly submitted by the defendant / legal counsel. Theoretically, based on the provisions of Article 160 paragraph (1) of the Criminal Procedure Code, it is determined that: "In the event that there are witnesses who benefit or incriminate the accused who are listed in a delegation of cases and or requested by the defendant or legal adviser or public prosecutor during the trial or before the decision is rendered The presiding judge of the trial is obliged to hear the testimony of the witness.

According to Handry Firwandy, Investigator at the Lubuk Baja Police, that "The victim's request to withdraw the report by asking the perpetrator to be released creates new problems, because the victim does not understand the criminal procedure law and is coercive towards the investigator."

Theoretically, the Criminal Procedure Code does not regulate the crown witness / kroon getuige. In essence, a crown witness is a witness taken from a suspect/defendant and given a "crown".

In judicial practice, there are substantially 2 (two) gradations of crown witnesses, namely first, crown witness is an officer who deliberately carries out orders from his superiors to commit a crime; second, the witness of the crown is a person who is really a perpetrator of a crime. If the witness of the crown is a deliberate officer, the basis for granting the "crown" refers to the provisions of Article 51 paragraph (1) of the Criminal Code as a reason for forgiveness because the officer carries out an office order, while for the witness of the crown being the perpetrator of a crime, the granting of the "crown" is in the form of exemption from prosecution. based on the principle of opportunity so that fundamentally investigators and public prosecutors should not be easy to put forward a "crown witness" in front of the trial because they must get permission from the Attorney General to deposit the case.

In addition, in practice the application of crown witnesses often creates juridical conflicts, namely on the one hand their status as a defendant. Thus, as a witness under oath he is obliged to provide true information and a violation of this is subject to criminal sanctions under the provisions of Article 424 of the Criminal Procedure Code. Meanwhile, as a defendant, his status by law is granted the right of denial, namely the right to refute the indictment, refute the statements of witnesses and the evidence presented before the trial. In connection with this status, theoretically there will be pressure or at least psychological pressure so that his statement can be doubted, especially if the witness at trial withdraws all his statements contained in the Minutes of the Investigator's Examination, both statements as witnesses and defendants so that the Judge does not obtain the truth about the Minutes of Investigation of Investigators.

Regarding verbalisant witnesses, fundamentally the word "verbalisant" is a term that commonly grows and develops in practice and is not regulated in the Criminal Procedure Code. According to the meaning of the lexicon and doctrine, "verbalisant" is "the name given to officers (police or given to special officers), to compose, make or fabricate news events". Thus, when viewed from the vision of judicial practice, the existence of a "verbalisant" witness appears if in the trial the defendant/accused in court is different from his statement in the Minutes of Examination made by the Investigator and the defendant/witness withdraws his statement there is a Minutes of Investigation by the investigators due to pressure. both physical and psychological.

The essence of expert testimony or "verklaringen van een deskundinge/expect testimony" is information given by a person with special expertise on matters needed to make light of a criminal case for the purpose of examination (Article 1 point 28 of the Criminal Procedure Code). Concretely, the expert's statement as the second gradation of valid evidence (Article 184 paragraph (1) letter b of the Criminal Procedure Code) is "what an expert stated in court" (Article 186 of the Criminal Procedure Code). However, according to the explanation of Article 186 of the Criminal Procedure Code, it is stated that the testimony of this witness may also have been given at the time of examination by the investigator or public prosecutor which is set forth in a report form and made by remembering the oath when he accepts the position or job. If this is not given at the time of examination by the investigator or public prosecutor, the examination at the trial is required to provide information and it is recorded in the form of an examination report. The statement is given after he takes an oath or promise before the judge.

C. Definition of Evidence

Proof is a stage that has an important role for judges to make a decision. The evidentiary process in the trial process can be said to be the center of the examination process in court. Proof is central because the arguments of

the parties are tested through the evidentiary stage in order to find the law that will be applied (rechtoepasing) or found (rechtvinding) in a particular case.

Proof is historical, which means that this proof tries to determine what events have occurred in the past which are currently considered as truth, events that must be proven are relevant events, because irrelevant events do not need to be proven.

In essence, what must be proven in this proof stage are events that lead to the relevant truth according to law. The purpose of proof is to establish a legal relationship between the two litigants in court to be able to provide certainty and confidence to the judge on the arguments accompanied by evidence presented in court, at this stage the judge can consider case decisions that can provide a truth that has certainty value. law and justice.

The legal system of evidence adopted in Indonesia is a closed and limited system in which the parties are not free to submit the type or form of evidence in the case settlement process. The law has clearly determined what is legal and valuable as evidence. Restrictions on freedom also apply to judges where judges are not free and are free to accept whatever the parties put forward as evidence.

If the litigating party submits evidence outside the provisions contained in the law that regulates, the judge must reject and set it aside in the settlement of the case. The parties involved in the evidentiary stage are processed in court, each of which has an obligation to prove the truth of what is argued in accordance with the contents of Article 163 Het Herziene Indonesisch Regulation (HIR) which states that, "Whoever claims to have the right, or mentions an incident to confirm that right or to dispute the rights of others, must prove the existence of that right or the existence of such an event" and is also regulated in Article 1865 of the Civil Code (KUHPerdata) which states that, "everyone who argues that he has a right , or in order to confirm one's own right or to refute a right of another person, referring to an event is required to prove the existence of such thing or event".

The evidence (bewijsmiddel) is of various forms and types, which are able to provide information and explanations about the issues being litigated in court. The evidence is submitted by the parties to justify the argument of the lawsuit or the argument of rebuttal. Article 164 Het Herziene Indonesisch Reglement (HIR) explains five pieces of evidence used in civil cases, namely written evidence, witness evidence, evidence in the form of suspicions, evidence in the form of confessions and evidence of oath, as well as in Article 1866 of the Book of Law. - Law on Civil Law and Rechts Reglement Buitengwesten (RBg) Article 284 and in its development also known electronic evidence as regulated in Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE) which contains SMS or Email that can be used as evidence in court.

In the civil case process, of the five pieces of evidence that can be submitted, written evidence is the preferred evidence, because of the characteristics of civil cases and the formal nature of civil law actions. All formal legal actions as outlined in writing that are carried out clearly and concretely in order to realize the civil procedural law as stipulated in the Civil Code and to provide legal force to guarantee the rights of a person. Written evidence is regulated in the Het Herziene Indonesisch Reglement (HIR) Articles 138, 165, 167, 164, 285 to .305 Rbg. S 1867 no.29 and Articles 1867 to 1894 BW.

D. Understanding Arisan Online

Based on the Big Indonesian Dictionary, arisan is a player who competes against other players at once (in dice, roulette, etc.); a person who organizes gambling; bookies; a person who controls an action (movement) clandestinely; the person who finances an unfavorable movement; people who have capital in trade, etc.; middleman.

Arisan is an activity to collect money or goods of the same value by several people and then draw lots among them to determine who gets it, the lottery is held in a meeting periodically until all members get it. In sociology, social gathering is one example of a form of socialization in society or family, friends or relatives, because in social gathering activities we need more than one individual.

Arisan is a group of people who collect money regularly in each certain period. After the money is collected, one of the group members will come out as the winner. Determination of the winner is usually done by lottery, but there is also a social gathering group that determines the winner by agreement.

In Indonesia, in the arisan culture, every time one of the members wins money in the draw, the winner has the obligation to hold a meeting in the next period the arisan will be held. Arisan operates outside the formal economy as another system for saving money, but this activity is also intended for meetings that have a "forced" element because members are required to pay and come every time a lottery is held.

In the current development of globalization, the habits and practices in arisan can differ from one another. The thing that needs to be considered is, is it based on habits that run in practice, where most of them facilitate their activities using online media as well as managing arisan funds by means of lotteries. In accordance with the progress of the times, in Indonesia, various kinds of social gatherings have developed rapidly which in everyday life

developed in society, which at first were habits in the community, in their development they have progressed, proven to have developed in all corners of the region.

Online gathering is an online-based gathering, carried out by several parties by means of money circulation, because those who play in each group are mostly the same people, so if one gives up it will affect the others, because they play in various groups to cover payments to other groups. Based on the explanation above, that arisan is very profitable, but in its activities it cannot be separated from the role of law, especially civil law which regulates engagements/agreements, that in an engagement/agreement there is at least one right and one obligation. An agreement can give rise to one or more engagements, depending on the form of the agreement.

Implementation and Implementation of Evidence From Electronic Evidence Tools in Handling "Trusted" Online Arisan Fraud

A. Fraud according to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions

With this Law, it is hoped that the public is afraid to make mistakes in the ITE Law, those who are responsible for all legal consequences in the implementation are carried out by themselves, all legal consequences in the implementation of electronic transactions are the responsibility of the transacting parties. Ensuring legal certainty in the field of information and electronic transactions.

This guarantee is important, considering that the development of information technology has resulted in changes in the economic and social fields. The development of information technology has made it easier for us to find and access information in and through computer systems and help us to disseminate or exchange information quickly. The amount of information available on the internet continues to grow and is not affected by differences in distance and time. With the existence of this ITE Law, people or individuals cannot behave as they please in cyberspace such as spreading content that violates decency, gambling, humiliation and/or defamation, extortion and fraud.

There are 6 basic principles that can be used to draft laws and regulations governing cyber crime as follows:

a. To protect legal interests related to information technology, criminal law is the ultimum remedium, because the use of administrative law and civil law is more important.
b. The provisions of criminal law must describe the prohibited acts in a precise, specific manner and avoid vague formulations. These provisions need to be made to balance actions related to a person's privacy with obtaining freedom of information.
c. Criminalization needs to be explained clearly in the criminal law provisions in each country, therefore the expansion of the provisions used as an explicit or implicit reference to apply criminal law, the provisions must also be clear.
d. The principle of error in the maker or the principle of culpability and the purpose of a crime is always used as part of the element of criminal responsibility in cyber crimes.
e. Criminalization of actions that can be punished because someone neglects to do something or an omissionist offense needs to be based on deep considerations.
f. Violation of personal freedom is a complaint offense.

B. Formal and Material Requirements for the Implementation of Online Fraud Handling.

Fulfilling the formal and material requirements for the occurrence of a criminal act of fraud, it is necessary to know the definition of the agreement that has been regulated in the Civil Code, as regulated in Article 1313, it is explained that an agreement is an act by which one or more people bind themselves to one or more other people.

Agreements as regulated in Chapter III of the Civil Code whose criteria can be assessed materially, in other words, can be valued in money. So, the meaning of the agreement is clear where the agreement is an event that someone promises or makes an agreement to another person, in that case the parties in the online social gathering concerned promise each other to do something.

In the field of contract law itself, in making a contract/agreement there are several principles that can be used as the basis for making an agreement. The principles that can be used as a basis for making agreements at this online social gathering are :

1. The principle of freedom of contract

In this principle it is explained that in order to establish a legal relationship called an agreement, the parties are given the freedom to make an agreement, as long as it does not conflict with applicable laws, propriety and public order. In the Civil Law legal system, this principle can be seen in Article 1338 of the Civil Code, which states that all agreements made legally apply as law for those who make them. It can also be used as a statement about the strength of an agreement, i.e. the same power as a law, the power is given to all legally made agreements.

2. The principle of consensualism (the agreement of the parties)

According to this principle, the agreement is considered valid and binding on both parties involved in it after an agreement has been reached, without any formalities or it can also be called an oral agreement. Thus the parties who carry out the agreement must fulfill what has been agreed upon.

3. Personality Principle

The principle of personality itself is the content of the agreement which can only bind the parties personally, and cannot bind other parties who do not give their agreement. So a person can only represent himself and cannot represent others in making agreements. The agreement made by the parties only applies to those who are involved in the agreement.

4. The Principle of Good Faith

In this principle, it can be seen that the element in question is honesty. The honesty of the parties to the agreement, which is intended so that it will not harm one party or the other.

5. Pacta sunt servanda principle

This principle has the meaning of "a promise that must be kept" which is very important to draw up a contract or agreement. So the existence of this principle is very important for the agreement used in this online-based arisan. Online arisan is an arisan activity that is carried out online or through social media, carried out by several parties in it with the money-playing method, because everyone does not only play in one arisan group but can be more with the intention of being able to cover other payments. With the implementation of this online arisan, it will certainly greatly facilitate other activities, this online arisan is very much in demand among ages because online means all transactions or interactions in these activities only through social media as long as they still have an internet connection that can connect with arisan members.

C. Online Arisan Fraud Crime

Conceptually, the essence of law enforcement lies in the activity of harmonizing the relationship of values that have been described in solid and embodied rules and attitudes of action as a series of final stages of elaboration, to create, maintain and maintain peaceful social life.

The police are the protectors of the community which should prevent every crime that appears in the community. The main task of the Police as stated in the Police Law Number 02 of 2002 Article 13 letter C is to protect, protect, and serve from various diseases of the community. Indonesia is a legal state.

Several laws and regulations have been promulgated which are legal in regulating prohibitions and sanctions for acts of fraud, both statutory provisions that are in the Criminal Code and statutory provisions outside the Criminal Code. Juridically, the crime of fraud is an act against the law and contrary to the applicable laws and regulations.

Regarding the crime of fraud, which is principally regulated in Article 378 of the Criminal Code, the formulation of the crime of fraud is: Whoever with the intent to benefit himself or others unlawfully, by using a false name, by deceit, or a series of lies, moves another person to deliver goods something to him, or in order to give a debt or write off a debt, is threatened with fraud with a maximum imprisonment of four years.

A new person can be said to have committed a criminal act of fraud as referred to in article 378 of the Criminal Code, if the elements mentioned in the article have been fulfilled, then the perpetrator of the crime of fraud can be punished according to his actions.

What Factors Are Obstacles / Obstacles And Solutions From Proving Electronic Evidence In Handling "Trusted" Online Arisan Fraud

A. Obstacles in Handling “Trusted” Online Arisan Fraud at the Tanjung Pinang Police

The obstacle in the investigation stage is the number of victims who do not report the online fraud crime so that the Police are looking for additional information and evidence. There are four kinds of sources of action before an investigation is carried out, namely, reports, complaints, known to the officers themselves and caught red-handed. After the source of the action, the next step taken by the police is to carry out an investigation. In general, investigation or in other words often called research is the initial step or initial effort to identify whether or not a criminal event occurred.

According to Article 1 point 5 of Law Number 8 of 1981 concerning the Law of Criminal Procedure, what is meant by "Investigation is a series of investigators' actions to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated in the Act. this law"

Meanwhile, what is meant by an investigator is explained in point 4 that: "Investigator is a State Police Officer of the Republic of Indonesia who is authorized by this Law to conduct investigations".

B. Criminal Sanctions Against Online Arisan Dealers If Defaults Occur

Default in the social gathering occurs if there are parties who are related to the social gathering run away from the previously agreed responsibilities. A common example is a few people who do not pay the arisan dues and disappear because they have received the collected arisan funds.

Every member who has entered into an agreement is obliged to carry out the obligation to pay dues in accordance with the agreed terms, so that not settling dues smoothly is an act of default that is commonly found in online arisan activities.

The online arisan dealer is the party most responsible for paying dues that should be carried out by arisan participants who do not carry out their duties. So that the irresponsible party intentionally makes negligence in this default act. Default is an action to replace interest, losses, or costs because a person does not fulfill his obligations based on a predetermined time based on Article 1243 of the Civil Code.

Every criminal law has an important element, namely criminal liability. Each law will evenly regulate criminal acts, so that it is not only contained in the Criminal Code. Law Number 19 of 2016 concerning Electronic Information and Transactions (UU ITE) and the Criminal Code which regulates regulations and legal sanctions for violations that occur due to online social gathering.

The definition of agreement is only given in general Limitations in the Information and Electronic Transaction Law. The agreement according to Article 1 number 17 of the ITE Law explains that the electronic system can be used in making agreements by various parties who need it.

On the other hand, the Electronic System in question is a set of procedures and electronic devices that have the function of disseminating, transmitting, announcing, displaying, storing, analyzing, processing, and collecting electronic information. The electronic information contained in the sentence above is a collection of electronic data that is not limited to symbols, perforations, access codes, signs, letters, numbers, telecopy or the like, telegrams, telexes, Electronic Data Interchange (EDI), Electronic Mail (E-mail). mail), designs, writings, maps, photos, images, and sounds that have been processed and have meaning and can be understood by someone who can understand. The validity of electronic contracts or agreements is only briefly explained in the ITE Law.

Meanwhile, each party is bound by Electronic Contracts made based on Electronic Transactions conducted under Article 18 paragraph (1) of the ITE Law. So that the parties who carry out the agreement are bound by a contract or electronic agreement based on the formulation and analysis of the article.

An agreement will be said to have legal protection if the specified legal conditions have been fulfilled based on the Civil Code. So that an agreement will be judged to be legally valid based on the existing law on electronic transactions that have been carried out.

Conclusions and suggestion

Conclusion

Based on the descriptions that the authors describe in the discussion of this thesis, it can be concluded in accordance with the problems raised as follows:

1. The legal arrangement for handling online fraud in the ITE Law does not limitatively say "fraud" but is related to elements of consumer losses and elements of electronic transactions. Then Article 28 paragraph 1 will complement Article 378 of the Criminal Code when it is a criminal act of fraud with the understanding that Law No. 11 of 2008 is an extension of the Criminal Code if the crime is committed with information technology or electronic devices. The phrases "lie" and "mislead" are two different things. In the phrase "spreading false news" which is regulated is the action, while in the word "misleading" it is regulated as a result of this act which makes people have wrong/wrong views.
2. Fraud according to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions is criminal liability according to Law Number 11 of 2008 concerning Electronic Information and Transactions against perpetrators of online social gathering fraud referring to on individual legal subjects. This is in accordance with Article 28 paragraph (1) where the elements that must be fulfilled are Everyone, intentionally and without rights, Spreading false and misleading news, and Which results in

consumer losses in Electronic Transactions. Meanwhile, criminal sanctions for perpetrators are regulated in Article 45 paragraph (2). The element of each person refers to a legal subject who must meet the requirements as a person who can be responsible for his actions or has the ability to be responsible. The element intentionally and without right refers to dolus (intentional) and culpa (negligence). This means that the perpetrators in committing criminal acts of online social gathering fraud must be based on intention. Online social gathering fraud can be categorized as intentional as an intention. The element of spreading false and misleading news refers to acts against the law where this element must be able to be proven at trial based on the facts revealed in the trial examination through the statements of witnesses, defendants and evidence. The element that results in consumer harm refers to the fact that evidence is from the victims who reported that they had suffered material losses.

3. The constraint factors and solutions in handling “trusted” online social gathering fraud at the Tanjung Pinang Police (Case Study Number: LP-B/12/IV/2020/Kepri/SPK-Res Tpi) is that the ITE Law does not explained directly about the meaning of fraud itself. However, the phrase "spreading false and misleading news" can be interpreted as "a ruse or a series of lies" contained in the article of the Criminal Code. In the Criminal Code, the criminal act of fraud is referred to directly, namely the sentence "punished for fraud" where one of the characteristics of fraud according to the Criminal Code which is similar to the characteristics of fraud according to the ITE Law is "by using a false name or false dignity, by deception, or by a series of lies." Another difference is also seen from the element "Which results in consumer losses in Electronic Transactions" contained in the ITE Law. The Criminal Code does not mention the facilities used as stated in the ITE Law, namely "in Electronic Transactions". The Criminal Code only mentions how the perpetrator commits a criminal act of fraud with the sentence "persuade people to give something, make debts or write off receivables"..

Suggestions

1. To law enforcement officers, the authors hope to further enhance law enforcement efforts against fraudsters under the guise of online social gathering and the need for an institution or party to be the supervisor of every legal agreement, be it a written agreement or an unwritten agreement so that there is a third party who know from the agreement made online.
2. To the public, the author hopes to be more careful and vigilant in carrying out electronic transactions, do not easily believe and be tempted by the lure of big profits, and the need for public awareness to better understand the law.

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