

## **Law Enforcement Against Fraud and/or Embezzlement (Study of KSP Intidana Central Java, Indonesia)**

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**Abstract**

*Crime recognized as a form of act which opposing the humanity's moral, harming people, has asocial nature, and violating law also criminal law. Because of that, crime must be eradicated, or must not let it continue until it evolves for the sake of discipline, security, and safety of people. One of the crimes that listed in criminal law (KUHP) is an act of fraud or embezzlement. The concept theory of this paper used the criminal sanctions which included: investigation, criminal act, the definition of scam or fraud, and the theories about cooperative. The paper indicated that the implementation of investigation process against perpetrator of fraud and/or embezzlement of Intidana Cooperative in Central Java's Regional Police implemented after police report number: LP/B/426/XI/2015/Jateng/Reskrimum, November 5th, 2015 and Inquiry Warrant with number: 336b/XI/2015/Dit Reskrimum November 17th, 2015 also Investigative Warrant with number: 336a/XI/2015/DitReskrimum November 20th, 2015. The next step which the Police took is to call and inspect victims or witnesses, arrest of suspect, detention of suspects and seizure of evidence. The investigation process by the investigator and the assistant investigator begins by contacting the complainant and completing the initial investigation administration then conducting the inspection of witnesses and the collection of evidence, determining and seeking, conducting the suspect's examination by arrest and detention of the suspect. The dimensions of criminal law enforcement in the conduct of investigation on the perpetrators of criminal acts of fraud and/or embezzlement of the Intidana Cooperative in Central Java's Regional Police is to minimize the occurrence of similar criminal acts, especially for the perpetrators in fraud and embezzlement cases in the future can be charged with criminal liability of fraud and embezzlement.*

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**INTRODUCTION**

LAW recognized that crime is a form of act which opposing the humanity's moral, harming people, has asocial nature, and violating law also criminal law. Because of that, crime must be eradicated, or must not let it continue until it evolves for the sake of discipline, security, and safety of people. One of

the crimes that listed in Indonesian criminal law code (KUHP)<sup>1</sup> is an act of fraud or embezzlement.

In plain words, as highlighted by Gunadi (2001), fraud is intentional deception; since it includes lying, cheating, embezzlement, stealing and money laundering. Embezzlement is the improper conversion of assets by persons, who has responsibility to take care the asset for his own purpose. While money laundering is a term used to describe the process of concealing and converting cash that has been earned illegally to another payment medium, there is also the intent of altering the appearance of the origin of funds from illegal to legal.

Fraud as well as embezzlement indeed has become one of crucial problems for Indonesia, as described by Gusnardi (2012) that is currently fraud in organizations especially in agencies government intensity increased, in accordance with the survey conducted by Transparency International Indonesia on 2015 which placed the political parties, Legislative Institutions and the Director General of Taxes as the most corrupt agency in Indonesia. This requires the role of auditors and other regulatory agencies; The Supreme Audit Agency (BPK) and the Financial and Development Supervisory Board (BPKP) to audit the indications of objective and independent fraud, so that corruption eradication works and the intensity decreases. Many corporate organizations have no attempt to deal with fraud with a proactive approach. When fraud occurs within an organization it has to face a dilemma. In the case of alleged fraud, many organizations generally resolve it internally without being published. The case is then closed and the problem is considered complete. Even Dwiputrianti (2009) highlighted that corruption as well as fraud recognized as the behavior of individuals who use authority and position to derive personal gain, and/or harm the public and the public interest.

The practice of accounting fraud—fraud and embezzlement—can arise in various forms, and according to Putra (2010) that fraud is divided into four classes based on recording, frequency, consipration and uniqueness.

The judiciary in Indonesia has law enforcement tools including Courts, Attorney and Police. As part of the state's law enforcement tool, the Indonesian National Police is in charge of maintaining the country's security. One form of police's action to cope with the criminal act of fraud and/or embezzlement is by having an Investigation. "According to the criminal procedure law, general investigations can be examined as: Investigation, Arrest, Detention and Prosecution." If the investigator has completed the investigation, the investigator shall immediately submit the case's file to the prosecutor and if within 14 days the prosecutor does not return the file, then the investigation will be considered completed and ready to be processed for the court.

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<sup>1</sup> Hereinafter called as KUHP, *Kitab Undang-Undang Hukum Pidana*

Investigation is a step to determine a truth, and that truth will be used as a base for decision by the Judge who executes a rule of Criminal Law. Investigation is a series of investigative actions based on the way that already prescribed in the criminal law to seek and collect evidence and to find the suspect. Tactic and strategy in the investigation process are one of the most important elements in the investigation. It is considered one because many perpetrators of criminal acts committed a crime neatly, even often occurs a case when the perpetrator is the one who report the crime. The perpetrator of a crime who pretending to be the reporter of a criminal act, of course will make the investigator having a hard time to find the real perpetrator of the criminal act, because the investigator will conduct an investigation on some persons outside the reporting party.

In the life of human society cannot be separated from the rules that have been established in the laws, if all communities obey it then they will be safe, peaceful, and prosperous in life. However, the reality is not so easy that the community can obey the rules because in reality the community and even law enforcers are not a few who being a perpetrator of criminal acts. Law always follows and attaches to socialized human. Before the law exists, there are various kinds of norms that directly or indirectly can both influence the behavior and actions of people in the colony in the social order. The most sensitive norms in people's lives are customary norms, religious norms, and moral norms, whereas legal norms arise not from society but derive from a state which is mandatory to be obeyed by every society in it.

The norms above that highlighted many roles to the rule of law in a country. One of the roles of the law has a function: "discipline and organize social interaction in society and solve problems that arise". With regard to the function of law in the development of society, Soeroso (2005: 53) argues that the legal functions consist of:

- 1) As a means of governing public relations.  
Law as the norm is a clue to life (*levensvoorschriften*). Man in society, the law shows what is good and what is not. The law also gives guidance on what to do and what not to, so that everything can go orderly and orderly.
- 2) As a means of bringing about social justice and inner self.
  - a. The law has the character of governing and forbidding.
  - b. Law has the nature of coercion.
  - c. The law has physical and psychological binding power.
- 3) As a means of driving development.  
The binding and enforcing power of the law can be used or utilized to drive development. Here the law is used as a tool to bring people towards the more advanced.
- 4) As a critical function.  
Dr. Soedjono Dirdjosisworo, SH (*in* Soeroso 2005), said: "Nowadays there is a growing view that the law has a critical function, namely the

legal power does not merely supervise the apparatus of supervision on the government apparatus but the apparatus law enforcers included”.

Society is basically a collection of people who live together with basic bonds that can be a common nationality, territorial, kinship, common purpose, or emotional attachment. In society always there will always be the law, as the classical *adagium* mentions that *ubi societas ibi ius* (where there is society, there is law). The society that establishes its own law and is itself willing to obey the law that is what is called the legal community.

The law is established by the legal community itself. This means that the law comes from the thoughts, desires, and feelings about what is considered right and just according to the community itself. The law is the result of a process that is internal and autonomous silently (silently operating) in the community. This process is rooted in a society based on beliefs and beliefs, as well as the awareness of the people concerned.

In reality no legal society can work effectively, if its laws are not obeyed by the society itself with its consciousness. The legal community is so attached to the cultural concepts of society that it contains the cultural wisdom and cultural knowledge that is indispensable to the people concerned, so it is not necessarily applicable to other communities.

According to Erwin and Busroh (2012) the so-called legal community is “a society that establishes its own law and is itself willing to obey the law”. Factors that may affect the functioning of the law in society are: (1) the law/rule itself, (2) officers/law enforcers, (3) facility, and (4) society.

For the functioning of the rule of law in society depends greatly on a harmonious relationship (proportionate link) between the four factors. (Soekanto and Abdullah 2010: 9-10).

From the description above can be seen that for the era of globalization which is followed by the development of communication that is increasingly rapid and open, the harmonious relationship between the four factors above are the applicable regulations, law enforcers, supporting facilities and the public can affect the functioning of the law in the society required. Thus it is known that one factor with another is closely related especially law enforcement factors so that law can be enforced.

Laws are formulated to regulate and protect the interests of the community in order to avoid collisions and to uphold human rights. Law is a social order, which serves as a tool for governing society. But its function is not only to regulate the community but to set it worthy and useful (Sudarto 1992: 6).

There are various laws applicable in Indonesia one of which is criminal law. This criminal law aims to prevent or inhibit the actions of society that are inconsistent with the rules of the applicable law, because the form of criminal law is part of the whole applicable law in a country, and laid the foundations and rules with a view to:

1. Determine which action is not committed, which is prohibited, accompanied by a threat or sanction in the form of a specific penalty, for anyone violating the prohibition.
2. Determine when and in what cases, to those who have violated such restrictions may be imposed or sentenced to the penalty as has been threatened.
3. Determine in what way the treatment can be carried out if any person is suspected of violating the prohibition (*in* Moeljatno 2012: 12).

Such legal arrangements, can be known actions that are illegal and can be known also the reason someone to do acts that are against the law, so it can cause social reactions to the community. Social reactions can also be said as an attempt to achieve social order, this form of social reaction will be more visible when the problems and threats of crime increase in quantity and quality. Social control through this law will expose individuals or members of society to alternative choices of adjustment or irregularities, whereas in the form of the most serious violations or violations it is a violation of criminal law called a crime.

Crime is a phenomenon of public life, because crime is also a human problem in the form of social reality. The cause of the crime in the opinion of Kartono (2005) can occur anywhere and anytime in life. While the rise and fall of the crime rate depends on “the state of society, the state of economic politics, culture and so forth”. In the international contexts, fraud actually can be identified one of by Benford’s Law, which this method Cho and Gaines (2007) that Benford’s Law is a fine example of a deeply non intuitive and intriguing mathematical result, simple enough to be described (if not fully explained) even to those without any formal training in math. The law pertains to the first digits of a collection of numbers. Further, described that, an interesting application of Benford’s Law has emerged in recent decades. Whenever first digits should follow Benford’s Law, it follows that deviations from the known distribution in data expected to conform signal some type of irregularity, possibly deliberate fraud. Accordingly, Benford’s Law has been put to use as a simple and effective way to test for fraudulent manipulation of data, as might exist in accounts when embezzlement has occurred. This method generally can be used as an additional tool of the process of law enforcement as well as in the evidence proof process.

One of the phenomena of public life that ever happened in society is a crime of fund investment committed by a cooperative. Cooperative is a vehicle to build and develop the economic potential owned by its members in particular and society in general to be able to improve their economic welfare and can enhance the quality of community life. In carrying out its activities the cooperative has always adhered to the principles of cooperatives. Economic principles that are used as the basic foundation of cooperatives in running their business are: independence, membership is open, management is done democratically, the distribution of the rest of the business is done fairly in proportion to the size of the business services of each member, the

reward is limited to the capital, cooperative education and cooperation among cooperatives. If the cooperative principles can be implemented by the cooperative properly then the cooperative will grow and develop well so that it can prosper the members in particular and society in general because the principles that distinguish the cooperative with other business entities and is an advantage for the cooperative.

However, in reality there are several issues related to the role and function of cooperatives in promoting the welfare of its members, one of the cases of abuse of authority that occurred in the KSP<sup>2</sup> Intidana Semarang with the perpetrator is Mr. Handoko, SE, his position as Chairman of KPS Intidana

Br. Handoko, SE in this case uses KSP Intidana as a means to commit fraud and/or embezzlement to the community by way of accumulating funds when there is already an appeal/ban from the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia to stop the activities/postpone collecting funds and money of depositors of KSP Intidana are used to purchase assets in the form of land that SHM (Certificate of Ownerships, *Sertifikat Hak Milik*)<sup>3</sup> on behalf of the suspect is Bro. Handoko, SE.

For these actions the victims made a complaint and report of the report to the police to carry out the action of an element of criminal acts of fraud and/or embezzlement and embezzlement perpetrated by Mr. Handoko, SE. The police then continued the report by conducting investigations and investigations. The nature of the fraud, as highlighted by Mahoney (1992), that the fraud will therefore be committed, and precaution costs, investments in lying, and allocative losses will all result. The magnitude of the wealth transfer itself provides a reasonable proxy for these other losses, and by removing all possibility of gain for the defendant, the recovery deters sufficiently to minimize these other losses.

A good study is a study focused on the issues raised. Therefore, because in this research there are many problems, but which will be examined only certain problems therefore the authors make efforts to limit the problem by emphasizing the title variable is on law enforcement of criminal acts of fraud and embezzlement, especially from the side of the investigation.

Criminal offense is a behavior that is threatened by criminal that is unlawful in nature which is related to error and done by people who are capable of responsible. Fraud is an act with the intent to benefit yourself or others unlawfully by using false names, false dignity, deceit or lies that can cause others to easily hand over goods, money or wealth. Embezzlement is a crime committed by a person who deliberately controls unlawfully an object wholly or partly belongs to another, but the person in getting the goods in his power not because of crime.

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<sup>2</sup> Saving and Loan Cooperative, hereinafter called as KSP, *Koperasi Simpan Pinjam*

<sup>3</sup> Hereinafter called as SHM

Investigation is a step to determine a truth and based on the truth it will be determined a judge's decision to implement a rule of Criminal Law. Identification of problems related to the possibility of problems in law enforcement in this study can be taken identification as follows:

Mr. Handoko, SE in this case uses KSP Intidana as a means to commit fraud and/or embezzlement to the community by way of accumulating funds when there is already an appeal/ban from the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia to stop the activities / postpone collecting funds and money of depositors of KSP Intidana are used to purchase assets in the form of land that SHM (Certificate of Ownerships) on behalf of the suspect is Mr. Handoko, SE. For these actions the victims made a complaint and report of the report to the police to take action of the element of criminal acts of fraud and/or embezzlement and embezzlement carried out by Mr. Handoko, SE, with number of police report No. Pol: LP/535/IX/2006/SPK, dated September 27, 2006.

Referring to the stages of reporting the above case, based on Police report no. Pol: LP/535/IX/2006/SPK, September 27, 2006, Semarang District Police investigator conducted case handling by conducting first by Place Genesis Case, by searching for information and evidence. It has been described earlier that this investigation process is the initial stage of the investigation so that the investigation process can proceed smoothly, at the inquiry stage, all information and evidence must be adequate, because all the facts, explanations, and evidence will be used as the basis of the investigation. In the case of seeking information and evidence, the investigator is obliged to immediately report the results of his investigation to the investigator (Article 5 paragraph (2) of the Criminal Procedure Code).

The act of suspect Mr. Handoko, SE is included in the element of criminal act of fraud Article 378 of the Criminal Code, both objective and subjective. The problems caused by the actions of Mr. Handoko, SE is:

1. Moving other people (victim: Mrs. Srijadi Sulaeman) to submit something (handing money/money to be place /stored in KSP Intidana). The act is done deliberately to benefit themselves unlawfully, meaning that when the act of moving others to hand over something (save the funds) done the financial state of the cooperative is in a state of minimal liquidity and ordered to stop the activity/delay raising funds, which should not allowed to conduct fund raising activities.
2. By using false circumstances, both with reason and trickery, as well as by written words of lying, persuading people to give something and in this case is Mr. Handoko, SE made a brochure with the inclusion of mission vision and so forth that as if true so that the victim is moved to hand over the money to be placed / stored, even though it is not appropriate or contrary to the actual situation and if the victim knows, the victim will not be able to hand over something.

3. Doing something fraud and embezzlement of Intentional Cooperative fund by deliberate means Mr. Handoko, SE wants to realize the deed and he knows, understands the value of deeds and conscious (even cans) of the consequences arising from his actions.
4. Elements against the law made by Handoko, SE because in the embezzlement of elements have is the element of behavior, in the form of objective elements. For the completion of embezzlement is required on completion or the realization of possessing acts, it is known that in the embezzlement can be fulfilled its objectivity element if the object of evil objects in the hands of handlers.
5. Members' trust in KSP Intidana due to weak liquidity and management of KSP Intidana focused on the authority and authority of the Chairman of the Board (Mr.Handoko) in effect One Men Show. While in the Cooperative Management executing the task of collective savings and loan collectively collegial, including in making decisions for the interests of cooperatives, can not be decided unilaterally by 1 (one) Board only.

The accountability of Mr. Handoko, SE as the Head of the Intidana Cooperative on the problems that arise are:

1. Seeks to cooperate with regard to chronology, evidence and evidence with the investigator to make the investigation process run smoothly and quickly.
2. Replace all losses of victims of fraud and embezzlement of Intidana Semarang Cooperative.

Does not eliminate physical evidence including administrative evidence such as receipts, report books and so forth. One of the cases that ever happened in society is a criminal act of fund investment conducted by a cooperative.

Based on the background above, problems would be analyzed concerning to (1) how is the implementation of the investigation process against the perpetrators of criminal acts of fraud and/or embezzlement of the KSP Intidana in Central Java's Regional Police?, and (2) what is the dimension of criminal law enforcement when conducting the investigation of criminal acts of fraud and/or embezzlement by the Head of the KSP Intidana in Central Java's Regional Police?

Referring to the background and the above problems it is hoped this research will provide benefits that is:

1. Theoretically

For the purpose of the research itself is to increase experience in the field of research and develop the science of law, especially in the case of criminal matters concerning the investigation of criminal acts of fraud and / or embezzlement of Intidana Cooperative in Central Java Police Resort.

2. Practically

From the results of this study is expected to obtain a thought that can be donated to the legal practitioners, and the public about the legislation, especially in criminal law that is the application of criminal sanctions against conducting investigation fraud crime and / or embezzlement Intidana Cooperative in Polda Central Java, eliminating offenses with similar mode.

Based on the description above, the approach method used in this research is sociological juridical approach. Sociological juridical approach according to Soemitro (1995: 97) is: "An approach method which describes a statement in the field based on legal principles, rules of law, or valid legislation".

Referring to the description above, sociological juridical approach can be used in this research, especially in reviewing the investigation of criminal acts of KSP Intidana in Central Java's Regional Police<sup>4</sup>. Specification in this research is descriptive research. According Sunggono (2003) specifications are descriptive namely: A study conducted by describing the facts that exist or activities carried out by the object under study. Descriptive research, aims to provide a very accurate picture of a situation, the symptoms of a particular individual or group.

From the description above, the specification of this research is considered able to help describe the reality of the activities under study by referring to the realities or activities of the process of investigation of criminal acts of KSP Intidana fraud in Polda Central Java.

Population according to Sugiyono (2009) is: "The generalization region consists of objects or subjects that have a certain quantity and characteristics applied by researchers to be studied and then drawn conclusions. Thus it is known that the population in this study is the Case Files of criminal acts of fraud investment funds that occurred in the area of Police Resort Semarang especially that occurred in Central Java Regional Police.

Regarding the sample it is known that the sample is part of the number and characteristics possessed by the population. Understanding the sample according to Sugiyono (2009) are: Some of the population and characteristics possessed by the population, if large populations and researchers are not possible to study everything in the population, such as limited funds, energy and time the researchers can use samples from that population. Thus it is known that the sample in this study is a Resume based Police Report No.Pol.: LP/B/426/XI/2015/Jateng/Reskrim, November 5, 2015 that occurred in Central Java Regional Police.

The sampling method used in this research is Non-Random Sampling. According Sunggono (2003: 18) non random sampling that is: Sampling is done in certain ways. namely purposive sampling. means that the sample determination considers certain criteria that have been made against the object in accordance with the objectives of the study.

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<sup>4</sup> Hereinafter called as Polda Jateng

With reference to the determination of non-random sampling samples, it is hoped that it will be able to answer the specific problems regarding fraud crimes by the Chairman of KSP Intidana, Handoko, SE based on Police Report No.Pol .: LP/B/426/XI 2015/Jateng/Reskrimum, November 5, 2015.

Data analysis method in this writing is obtained from research that will be analyzed qualitatively, that is by analyzing existing data based on theories relating to the problems studied, then what is expressed by respondents, both oral and written. So, after the required data is collected completely, the next step that must be done is the data analysis phase, namely the data utilization stage in such a way that can conclude the truth that can be used in answering the subject matter.

In accordance with the data collected then the data analysis conducted using qualitative method that is analyzing the data collected both from the primary data and secondary data, so as to achieve clarity of the problem studied in the form of descriptions arranged systematically. In the writing of this law, the author uses inductive methods in the withdrawal of conclusions. By using this inductive method then the data obtained from the results of field research and literature study results collected and then analyzed and drawn conclusions.

## THE INVESTIGATION PROCESS AGAINST THE PERPETRATOR OF FRAUD AND/OR EMBEZZLEMENT IN KSP INTIDANA IN CENTRAL JAVA REGIONAL POLICE

ARTICLE 1 point 2 Criminal Procedure Code is explained that "Investigation is a series of actions by investigator with the way that prescribed in law to seek and collect evidences to find the suspect". The investigation done with a notice to the public prosecutor that the investigation against a criminal event had commenced or called Notice of Commencement of Investigation (SPDP). If in the investigation the evidence is insufficient to investigate or the event is not a crime of mentioned investigation, it may be terminated by law. If the victim or the victim's family does not accept the termination of the investigation, the victim or their family may ask for a pretrial to the court head in accordance with regulated legislations.

If the investigator has completed the investigation, the investigator shall submit the case file to the prosecutor immediately. If the case file is incomplete, the case file must immediately returned to the investigator with the evidence and if within 14 days the file does not return, the investigation is considered completed.

For the fraud and embezzlement case in KSP Intidana which done by the suspect Handoko, the investigation process was conducted based by the Police Report number: LP/B/426/XI/2015/Jateng/Reskrimum, November 5<sup>th</sup>, 2015 and inquiry/order letter Number: 336 b/XI/2015/Dit Reskrimum November 17<sup>th</sup>, 2015 and also Investigation Order Number: 336 a/XI/2015/Dit Reskrimum November 20<sup>th</sup>, 2015.

According to the police reports above and investigation order, the police summon the victims and/or the witnesses which already regulated in the provisions of the Criminal Procedure Code (KUHAP), one of the investigator's task is to summon people to be interviewed and examined as a witness. The victim's job here is to inform the police (investigator) about the witnesses who knows about the case they have. That means, the investigator is the one who call the witness to provide information to the investigator and the information will be presented at the court later.

Summons is one of forced attempts in the investigation phase other than to arrest, detention, search and confiscation of documents. And for the meaning of an investigation listen in Article 1 point 2 of the Criminal Procedure Code is a series of Investigator's actions based on the regulation prescribed by law to seek and collect evidence which will makes the light of a crime that occurred to find the suspect. Because of it, the purpose of the summons is an attempt to find evidence to make light of a crime act.

When making a summons, the investigator is obliged to give a written file for it. Deadline period of the summons for the time to attend calls should be made with regard of a reasonable deadline period of 3 (three) days at least to fulfill the summons. In practical, the Summons are delivered to the called side in various ways, such as requesting the called side to take his/her own Summons, entrust them to a legal counsel or the investigator themselves deliver it directly to the called side. In its principle, the Summons should be given to the called party with a receipt, except in case when: the person is not present at its residence, the Summons shall be submitted through the person's family, legal representative, Head of neighborhood association/citizen association, Village Head or other person who can guarantee that the summons can be delivered to the person involved as soon as possible; or if the called side is outside jurisdiction of the police unit, the summons can be delivered through the Police unit in the involved side's residence or sent the Summons by postal mail service, accompanied by receipt of the delivery.

In case that the called side is absent, the investigator will issue a second Summons. If the called side has no reasonable and good reason for failing to come after the second Summon, then the investigator may issue a Letter of Instruction to the called side. However, this isn't applicable if the called side fails to fulfill the summons for proper and reasonable reasons, the

investigator's examination may be conducted at a place of residence or elsewhere with regards to the appropriateness.

A person may be called by the investigator to be examined as long as within the capacity of witnesses, expert witnesses or suspects. For the examination of witnesses, if the witness to be expected cannot be present in the trial, the witness must be sworn before the examination and make an Official Report. If a person is summoned by the person's capacity as an expert witness, the Investigator shall first ask pledge from the expert witness that they will give information based on his / her expertise.

Calling of victims or witnesses in cases of fraud and/or embezzlement of the KSP Intidana, among others:

- a) Without a summons having been examined on the witness on behalf of Sjri Sulaeman and having been examined on November 20, 2015 and January 22, 2016;
- b) Without a summons, a witness has been examined on behalf of Mr. Kwan Sio Pwee on November 20, 2015;
- c) Without a summons, a witness has been examined on behalf of Mr. Tirta Wawa's Power on November 20, 2015;
- d) Without a summons there has been an examination of witnesses on behalf of Mr. Ridus Ridando on November 23, 2015;
- e) Without any summons there has been an examination of the witness on behalf of Mr. Edwin Listyo Supriyanto on November 23, 2015;
- f) Without a summons having been examined on the witness on behalf of Mr. Kimyati on November 23, 2015;
- g) Without a summons, a witness has been examined on behalf of Mr. Ikri Ika on November 23, 2015;
- h) Without a summons, a witness has been examined on behalf of Sdr. Teguh Susilo on November 24, 2015;
- i) Without a summons of the witness on behalf of Sdr. Tonni Supriyanto on November 24, 2015;
- j) Without a summons having been examined by the witness on behalf of Mr. Vincentia on November 24, 2015;
- k) Based on the Notification Letter No: S.Pgl / 1062 / XI / 2015 / Dit Reskrimum dated 20 November 2015 witnesses were examined on behalf of Sdr. Bugi Prayogo on November 24, 2015;
- l) Based on the Letter of No: S.Pgl / 1064 / XII / 2015 / Dit Reskrimum dated 20 November 2015, witnesses have been examined on behalf of Mr. Martha Rahayu Soetikno on November 24, 2015;
- m) Based on the Notification Letter No: S.Pgl / 1066 / XII / 2015 / Dit Reskrimum dated 21 November 2015 witnesses were examined on behalf of Mr. Eka Sarworini on November 25, 2015 and 2 February 2016;

- n) Based on the Notification Letter No: S.Pgl / 1065 / XII / 2015 / Dit Reskrimum dated 20 November 2015 witnesses were examined on behalf of Mr. Alfamira Visiesti on November 25, 2015 and January 18, 2016;
- o) Without any summons there has been an examination of the witness on behalf of Sdri.Evelyn Ariani Mulyono on November 25, 2015;
- p) Without a summons, a witness has been examined on behalf of Sdri.Sri Djajati on November 26, 2015;
- q) Without a summons, a witness has been examined on behalf of Mr. Sylvia Pratiwanggana on November 26, 2015;
- r) Based on the Letter of No: S.Pgl / 1063 / XII / 2015 / Dit Reskrimum dated November 20, 2015, witnesses were examined on behalf of Mr. Rochaedi, SE on November 30, 2015;
- s) Based on the Notification Letter No: S.Pgl / 1129 / XII / 2015 / Dit Reskrimum dated December 21, 2015 has been examined witnesses on behalf of Sdri.Damar Tuwuh Palupi aka Agnes Winantoro on November 29, 2015;
- t) Based on the Calls No: S.Pgl / 1154 / XII / 2015 / Dit Reskrimum dated December 31, 2015 has been examined on behalf of the witness Sdri.Okky Wibowo on January 13, 2016;
- u) Based on the Letter of No: S.Pgl / 1153-a / XII / 2015 / Dit Reskrimum dated January 7, 2016 has been examined on behalf of the witness Sdri.Setiyorini on January 13, 2016;

In the victim or witness' examination process, they have the right to be clearly informed by using the language they understand about the reported criminal case. Investigations that conducted by the investigators in the principle is meant to gather information on the fraud and/or embezzlement crime of the KSP Intidana, after obtaining clear and accurate information along with the evidence from witnesses or victims, then the police's action is to issue an arrest warrant against suspect Handoko.

According to Arrest Warrant Number: Sp.Kap/14/II/2016/Ditreskrimum February 9<sup>th</sup>, 2016 Mr. Handoko, SE has been arrested and has been questioned as a SUSPECT on February 9<sup>th</sup>, 2016. After that the suspect has been detained based on Detention Warrant Number: Sp.Han/12/II/2016/Ditreskrimum February 9<sup>th</sup>, 2016 since February 9<sup>th</sup>, 2016 and has been released based on the Letter of Expenditure Detention Number:Sp.Han/12-b/II/ 2016/Reskrimum on February 23<sup>th</sup>, 2016.

In the process of investigation, investigator also conducted a seizure of evidence based on Foreclosure Order Number: Sp.Sita/12/I/2016/Dit Reskrimum on January 14<sup>th</sup>, 2016 to seize the evidence based on the list of evidence which attached to the file of the case.

Based on the analysis above, there is a hint that a criminal acts of fraud and/or primary embezzlement in title of subsidiary embezzlement as referred in Article 378 of the Criminal Law and/or primary 374 KUHP subsidiary 372 of the Criminal Law that occurred in KSP Intidana conducted by Suspect Mr. Handoko , SE.

Since 2014 KSP Intidana is not working well anymore (having loss) and Mr. H Rochadi, SE already warned Mr. Handoko, SE to not accept more funding (time deposits, savings, etc) because the cooperative already in a deficit and there is a worry that the loss of KSP Intidana will increases. Mrs. Srijati Sulaeman and other victims feels harmed because they did not know that KSP Intidana is in a deficit since 2014 and time deposits they put in KSP Intidana is already on its deadline and withdrawal cannot be done. Money from the depositors of Intidana Cooperative was used by Mr. Handoko, SE as the head of KSP Intidana to buy land with his behalf, where the fact is that asset of cooperative may not be used for behalf of private name.

Based on the description above about the research results of investigation process of fraud and/or embezzlement within the KSP Intidana, analytically can be explained that the basis of the investigation of criminal acts of fraud and embezzlement allegation within KSP Intidana is because the existence of Model B Police Report received from the complainant or the victim about criminal act of fraud related to KSP Intidana fund in jurisdiction of Central Java's Regional Police, The Model B Police Report was accepted by Central Officer of Integrated Police Service. Then handed over to the Criminal Investigation Unit to be handled by investigators or assistant investigators and conducted initial inspection in the form of Inspection Official Report against the complainant or victim to find an existent criminal incident and whether there is sufficient evidence or not. Based on the interview with Central Java Police Investigators (2017) it is known that after the file of investigation case is ready, the investigator shall immediately conduct Phase I or delegating the case file to the Public Prosecutor. In 14 (fourteen) days after the case files are delegated and there is no other evidence from the Public Prosecutor, then the Case Files are considered complete (P21) by the public prosecutor and the investigator immediately implements Phase II or the submission of the Suspect and Evidences to the Public Prosecutor, the investigation process by the Investigator is completed after completing the Phase II or the transfer of suspects and evidence phase.

The investigation process, sometimes face some problems and challenges, as well in on the case of fraud and embezzlement, as emphasized by Julaiyanti (2016) that the weak control and even no control against debit-credit cooperation give chance for deviations against regulation regarding with debit credit cooperation. The deviation is directed to criminal acts which make the caretaker and manager of cooperation to be suspected and criminal

acts which have potency to be happened in debit-credit cooperation activity are criminal act of embezzlement and fraud.

Implementation of the investigation in initiating the investigation process that is only carried out by the SPK is due to the administration of criminal proceedings governing the conduct of the investigation is not clearly defined. Implementation of investigation activities is basically done by investigators and auxiliary investigators. It started after the police report was received by investigators and auxiliary investigators. The investigation process of investigators and auxiliaries is as follows:

1. Contact the complainant and complete the initial Inquiry (*Mindik*) administration

The investigator after receiving the report and distributing the report to one of the members who are under it by assessing the ability of members with the quality (weight) of the case, it submitted to next process. After the report is recorded in the police report book of the investigator group level (recording of the report in this book is not provided for in the administrative provisions of the investigation), the investigator or auxiliary investigator contacts the complainant by telephone to make an initial notice that the case reported is handled by the investigator or auxiliary investigator and make an agreement on the timing of the examination, if the relationship with the complainant cannot be carried out by the investigator to make a formal summons by a summons as a witness. Along with this administrative investigation (*Mindik*) this investigator and auxiliary investigator filed the initial investigation administration to be signed by Kasat as the investigator first signed by Kapokdik and Kanit. The *Mindik* consists of a notice to the complainant about the investigator and the auxiliary investigator who handles the case, the search warrant and the summons. The administration of the investigation is structured in a specially designed folder in which a complete report with a memorandum or a position of appointment of the investigator and the auxiliary investigator as the investigating officer shall be provided. Each unit has the same design map only distinguished on the color of the map only.

2. Examination of witnesses and collection of evidence

In this activity, an investigator or auxiliary investigator based on an official call or telephone connection meets with the complainant, the examining room at the appointed hour. An investigator or auxiliary investigator conducting witnesses or suspects in one day from one person to three persons whether or not they are related in a single police report or in a different report submit the important information. The information submitted by the complainant, investigator or investigator

always asks for other supporting evidence. Information that is not supported by other evidence, then the information has no quality.

3. Determine and seek and conduct suspect checks

Determining the status of the person reported on the summons is done with caution. Calling is made against a person who is reported as a witness status if the investigator and auxiliary investigator based on the examination of the witness and the evidence obtained in the previous investigation has not indicated that he or she has committed a criminal offense or has not found that the reported event is a criminal offense the criminal or the called party.

A call made directly as a suspect is committed when it is convinced that the reported incident is a criminal act of fraud, there is evidence supporting a person reported as a criminal offender or to fulfill the interests of a particular party.

4. Conducting a forced effort against the person being reported

The authority granted by law to investigators and auxiliary investigators in carrying out forced efforts aimed at facilitating the process of investigation, especially in a proof is often on the criminal acts of fraudulent use only to meet the request of the complainant in order to achieve its interests.

5. Conduct investigative action

The results of the investigation activities set forth in the administration of the investigation shall be prepared in the form of a file if the case shall be terminated by the issuance of a warrant for termination of investigation (SP3) or if the case shall be submitted to the prosecutor.

6. Formulation and submission of case files

For the arrested suspect, the compilation and submission of the file and the statement of the completeness of the case file shall be taken into account the period of time. The compilation of files and submission of slow files and back and forth due to incomplete files may result in suspects being detained to be issued by law. This becomes a problem for the investigator and influences the leader's assessment of the investigator's performance if the suspect has to leave by law because the suspect's inaccuracy is expected to escape when released from detention.

7. Supervision and control of fraud criminal investigation

Supervision and control of cases by superior investigators and investigators is very influential on the process of solving criminal investigation. This activity includes data collection in the administrative registration task book, any investigation activities conducted by the

numbering of each letter issued as the basis for conducting such investigation activities.

In the case of the implementation of the investigation process of fraud crime and/or embezzlement of KSP Intidana, there are several obstacles, among others:

- 1) Factors of Law Enforcement Officials such as lack of coordination between the police force to make information obtained by police officers overlap. Though the information from the victims and witnesses has a huge share of the investigation stage, it has to be clear and proper. On the basis of this also the public confidence of law enforcement is also lower. However, in the criminal acts of fraud and embezzlement of the KSP Intidana in Semarang City during the investigation stage, inhibiting factors are more likely due to lack of coordination among law enforcement officers.
- 2) The ignorance factor of the owners and management of the Cooperative with the imposition of the process of criminal acts of fraud and embezzlement of money in the Cooperative so that they are not careful in managing the financial members of the Cooperative who keep his funds in the Cooperative due to the absence of criminal sanctions in the Criminal Code fraud and embezzlement within the Cooperative. However, in the case of KSP Intidana the owner of the cooperative has in carrying out his cooperative has committed a criminal act of fraud and embezzlement by deliberately owning against the right of a thing entirely or partially belonging to another person and the goods are in his hands as regulated and threatened with criminal sanction in Article 374 Book The Criminal Code (Penal Code). Against the owner / manager of the Cooperative may be sentenced to imprisonment by using the criminal embezzlement article, which has the essential element 'element because of his job or his position ', where because the perpetrator is under the umbrella of the cooperative, then the individual who becomes the perpetrator can still be snared even though the victim is the depository customer in the cooperative not saving money on the personal owner / cooperative management.
- 3) Cultural factors that are actually united with the factor of society, because this problem related to system of values that became the core of material culture, which is benefiting from the results of time deposits. Culture that is actually less good to do is always follow the activities / actions and information followed by relatives or people he knows without knowing in detail what was done by the previous person.
- 4) Factor of facility or facility.

With the support of adequate facilities and facilities law enforcement will be done well. Facilities in question including human resources,

good organization, equipment that qualified, and adequate funding sources have to be properly provided. If the facilities and facilities can be met, then law enforcement will run optimally.

In the case of Intl. KSP therein contains criminal acts of fraud and embezzlement. Regarding the criminal act of fraud has been regulated in Article 378 of the Criminal Code, while the criminal act of embezzlement is governed by Article 372 of the Criminal Code.

Judging from the motive, the criminal act of fraud aims to gain profits, by obtaining goods, given debt, or deleted debt. People who commit felonious crimes face a maximum of 4 years imprisonment. Article 378 of the Indonesian Criminal Code stated that anyone with the intent to benefit himself or others unlawfully, by using false or false dignity, by trickery or by lies, to move others to surrender things to him, or to give debt or write off accounts, is threatened fraud with a maximum imprisonment of four years.

Furthermore, the criminal act of embezzlement, seen from the motive aims to have goods or money that when it exists in the mastery of which goods or money is actually belongs to others. The perpetrators of criminal act of embezzlement are threatened with imprisonment for a maximum of 4 years. Read More Article 372 of the Criminal Code stated that anyone who intentionally and unlawfully owns a thing wholly or partly belongs to another, but who is in his power not because the crime is threatened by embezzlement, with a maximum imprisonment of four years or a fine of up to nine hundred rupiah.

The criminal acts of fraud and embezzlement in the Criminal Code are set forth in Book II on Crimes Against Property, namely in the form of an attack on the legal interests of the person for his property. In general, the elements of criminal acts against these assets include the objective and subjective elements. The objective element in question is in the form of things as follows:

- 1) The element of material deed, such as the act of taking (in the case of theft), forcing (in the case of extortion), owning / claiming (in case of embezzlement, moving the hearts / minds of others (in the case of fraud) and so on;
- 2) Elements of objects / goods;
- 3) The elements of circumstances that accompany the object object that must be owned by others;
- 4) Elements of certain efforts used in committing a prohibited act;
- 5) Constitutive elements arising after the prohibited act.

While the subjective element is composed of:

- 1) The element of error formulated with words such as "with intent", "intentionally", "which it knows / presumably presumes" and so on; and

2) Elements against the law both explicitly stated in the formulation of the article or not.

Opinions from experts such as Criminal Law expert UNWAHAS Prof. Dr. Mahmutarom HR, SH., MH, as well as Criminal Law expertise UNISSULA (R. Sugiharto, S.H., M.H Bin Alm R. Soepangat) has sufficiently explained that the KSP Intidana case contains the existence of criminal acts of fraud and embezzlement.

To be able to declare a person as a perpetrator of embezzlement, the Panel of Judges of the Court must also conduct an examination and prove legally and convincingly, whether it is true and the person's actions have been proven elements of criminal act of embezzlement either in the form of subjective elements and objective elements. In the context of proof of subjective elements, for example, the deliberate intent of the embezzlement (*opzet*), gave birth to the verification implications of whether (based on legal facts) the defendant did:

- 1) "desire" or "intend" to control an object unlawfully.
- 2) "know / realize" with certainty that what he wants to master is an object.
- 3) "know / realize" that the object is partly or wholly belongs to another person.
- 4) "know" that the object is present to him not for a crime.

While related to the objective elements of the offense of embezzlement, according to the perspective of criminal law doctrine there are several things that must be understood also as follows:

- a) The perpetrator of embezzlement shall exercise the possession of an object that belongs to the other person unlawfully. Elements against the law (*wederrmechtelijk toeigenen*) this is a thing that must be attached to ad there is the act of controlling objects belonging to others earlier, and thus must also be proved. According to van Bemmelen and van Hattum, the meaning unlawfully in this case is sufficient and can be interpreted as "contrary to the propriety in the community."
- b) The scope of the meaning of an object belonging to another person controlled by the perpetrators of unlawful embezzlement, in practice, tends to be limited to the understanding of objects which by their nature are transferable or commonly referred to as "moving objects".
- c) The notion that objects under the control of the perpetrators of embezzlement, in part or wholly belong to others, is meaningful (according to Arrest Hoge Raad) that there must be a real direct connection between the perpetrator and the object under his control.

Referring to the above description, the evidence found in the case of fraud and embezzlement is in accordance with Article 184 Criminal Procedure Code which contains the evidence instruments, namely:

- (1) Legal evidence consist of:
- a. testimony of witnesses;
  - b. expert description;
  - c. letter;
  - d. instructions; and
  - e. statement of defendant.

- (2) Things that are generally known do not need to be proven.

In addition to Article 184 of the Criminal Procedure Code, also in accordance with Article 185 of the Criminal Procedure Code which describe the Witness in the Court.

1. Article 185 paragraph 1, stated that: The testimony of the witness as evidence is what the witness stated in the trial.
2. Article 185 paragraph 2, stated that: The description of a witness alone is not sufficient to prove that the defendant is guilty of the act he is accused of.
3. Article 185 paragraph 3, stated that: The provisions referred to in paragraph 2 shall not apply if accompanied by any other valid evidence.
4. Article 185 paragraph 4, stated that: Separate witness statements about an event or circumstance may be used as a valid proof if the witness's statements are related to one another in such a way as to justify a particular event or circumstance.
5. Article 185 paragraph 5, stated that: Neither opinions nor inventions obtained from the results of thought alone are not the testimony of witnesses.
6. Article 185 paragraph 6, stated that: In assessing the truth of the testimony of a witness, the judge must seriously observe:
  - a. The correspondence between witness testimony with each other.
  - b. Adjustment of witness testimony with other evidence.
  - c. Reasons that might be used by witnesses to give certain information.
  - d. The way of life and morality of witnesses and everything that can generally affect whether or not the information is believed.
7. Article 185 paragraph 7, stated that: the statements of witnesses that are not sworn in alignment with one another are not evidence, but if the statements are in accordance with the statements of the witnesses the oath may be used in addition to other legal evidence.

In the theory of determination should use the principle of presumption of innocence. The principle of presumption of innocence is regulated in Article 8 (1) of Law Number 48 Year 2009 on the Judgment, namely: "Anyone suspected, arrested, detained, prosecuted or brought before a court shall be presumed innocent before any court decision declare his guilt and have obtained a permanent legal force".

However, for Police organizations it is not possible to use the principle of presumption of innocence because it has found legal evidence. In this case, 2 (two) valid evidences are in the case of Police No. Police Number: LP/B/426/XI/2015/Jateng/Reskrimum. And on the basis of 2 (two) valid evidences Police conduct investigations on Police No. Police No. LP/B/426/XI/2015/Jateng/Reskrimum, November 5, 2015 and Task Force /Investigation No. Pol: 336/XI/2015/Dit Reskrimum dated 17 November 2015 and Investigation Order No Pol: 336 a /XI/2015/Dit Reskrimum dated 20 November 2015.

If we observe the overall provisions of the Criminal Procedure Code, it can be concluded on the investigation stage of the case number of Police No.Pol: LP/B/426/XI/2015 /Jateng/Reskrimum, dated November 5, 2015 and Duty / Inquiry Letter No Pol: 336 b /XI /2015/Dit Reskrimum dated 17 November 2015 and Investigation Order No Pol: 336a / XI / 2015 / Dit Reskrimum dated 20 November 2015 are:

1. Beginning with the material of criminal input;
2. Take first action at the scene;
3. Calling and examining suspects and witnesses;
4. Conducting required forced effort; and
5. The making of the minutes.

Minutes of Examination (BAP) have an important role on the level of investigation because the trial of the BAP will be used as a reference in the hearing. The investigation is a crime of investigation in respect of and in the manner prescribed in this law to seek and collect evidence which with evidence it makes war on the offense and to find the suspect. The investigation is carried out by the authorities: the investigator. According to Article 1 point 4 of the Criminal Procedure Code, the investigator is an "officer of the Republic of Indonesia police who is authorized to conduct an investigation". Then reaffirmed in Article 4 of the Criminal Procedure Code, that investigators are "every official of the Republic of Indonesia Police".

While the authorized investigation is the investigator. According to Article 1 paragraph (1) of the Criminal Procedure Code jo article 6 paragraph (1) of the Criminal Procedure Code, the investigator is "a police officer of the Republic of Indonesia or a certain civil servant officer who is specifically authorized by law to conduct an investigation".

In the case of not using the principle of presumption of innocence in this case, it does not mean that the police do not understand the right of the suspect to be primarily concerned with human rights, but that is because the Police has referred to the invention of 2 (two) valid evidences.

## CRIMINAL LAW ENFORCEMENT DIMENSIONS IN THE IMPLEMENTATION OF INVESTIGATION AGAINST PERPETRATOR OF FRAUD AND/OR EMBEZZLEMENT OF KSP INTIDANA IN CENTRAL JAVA'S REGIONAL POLICE

LAW as a form of configuration for human civilization developed together with society. Lately, changes often happened within Indonesian society which known as moral crisis. Ediwarman (2012) emphasized that a law applies philosophically if the law is in accordance with legal ideals (*rechts idee*) as the highest positive value, which is to form a just and prosperous society based on Pancasila and the 1945 Constitution, but in the other hands, crime continues to develop along with the development of human life. One form of crime that still often happened in society is fraud, and embezzlement. For the person who did it, that criminal act is not really hard to do. Fraud can be done just with good communication ability so the perpetrator can convince their victim.

Fraud is a form of deceit, in a shape of false words, or deliberately convince people to give valuable goods to the perpetrator which has a purpose to make a profit for the perpetrator which against the rights. The general characteristic of deceit is making the victim deceived so they want to give their belongings or money.

Crime fraud is a form of "*materieel delict*" which means to make it occurs, it must have an effect. As regulated in Second Book of Chapter XXV Article 378 of the Criminal Code, that is:

Anyone with the intention to benefit himself or others unlawfully, by using fake name or fake dignity, by trickery or by series of lies to persuade others to give valuables to them, or in order to make them having a debt or abolishing credits, is threatened with a imprisonment for a maximum of 4 (four) years by doing fraud.

Crime in form of fraud and embezzlement are threatened with criminal sanction, in its enforcement, it still lacks of deterrent effect on its violation, because in the enforcement of the criminal law, only regulation of an act arranged in law is not enough, law officer as executor of the provisions of the law are also needed and institutions authorized to deal with such crimes like the police, prosecutors and court.

According to Soekanto (2010), law enforcement is a harmony of relationship between values which described in definite principle with

concrete act as a series of final stages in value translation to create, maintain and protect peace in life. Moreover, it said that the act of law enforcement is not solely implementing law, even in fact Indonesia has that tendency.

There are 3 (three) steps of law enforcement by the police, which is as follows:

- a. Formulation stage, the stage of criminal law enforcement *in abstracto* by legislatives. In this stage, the establishment of law is by the act of choosing the values which fitting with the current and future condition, then formulate it in form of criminal legislation to achieve the best legislation result, in the purpose of fulfilling the requirements of justice and efficiency. This stage can also be called legislative policy stage.
- b. Application stage, the stage of criminal law enforcement (the stage of applying criminal law) by law enforcement officers which includes the police, prosecutors, and to the courts.
- c. Execution stage, the stage of enforcement (implementation) of criminal law concretely by the criminal law enforcement officers. In this stage, the law enforcement officers has a duty to enforce criminal law which created by formed law by applying punishment that established by the court. Law enforcement officers when doing their duty must follow the rules of criminal legislation which created by the establishment of law and the values of justice and efficiency. This stage also often called executive or administrative stage.

Law enforcement in the case of fraud and or embezzlement criminal acts within the KSP Intidana is done by applying Article 378 of the Criminal Law and Article 374 of the Criminal Law.

Related to fraud according to Article 378 Criminal Law will be described as follows: anyone with the intention to benefit himself or others unlawfully by using fake name or fake dignity, by trickery or by series of lies to persuade others to give valuables to them, or in order to make them having a debt or abolishing credits, is threatened with a imprisonment for a maximum of four years by doing fraud.

Further, the elements listed in Article 378 of Criminal Law are:

1. Anyone;
2. With the intention;
3. To benefit himself or others by ignoring rights;
4. By using fake name or fake dignity, by trickery or by series of lies to persuade others to give valuables to them, or in order to make them having a debt or abolishing credits.

According to the description above, then Article 374 of Criminal Law contains these elements:

1. Fraud
2. Which done by a person.
3. Whom its authority of the goods is caused by their work relationship or because of its livelihood or being paid for it.

That suspect, Mr. Handoko, SE as the Head of KSP Intidana has committed a criminal act of embezzlement of cooperative money and used them for the private benefit, one of them is by purchasing land assets.

If described, the elements contained in Article 374 of the Criminal Law are:

1. Embezzlement elements;

a. Anyone

This element is referring to the person who has allegedly committed acts of embezzlement which is Mr. Handoko, SE as the Head of KSP Intidana (element fulfilled).

b. Deliberate element

This element is referring the suspect Mr. Handoko, SE as the Head of Intidana Cooperative intentionally purchased the certificates which money was obtained from depositors of KSP Intidana.

c. Element of authority by opposing rights

This element is referring the suspect Mr. Handoko, SE as the Head of Intidana Cooperative intentionally purchased the certificates which money obtained from depositors of Intidana Cooperative whereas he has no rights and made the certificate as his behalf.

d. The element of valuables which fully or partially belongs to another person.

The money that owned and used by the suspect Mr. Handoko, SE as the Head of Intidana Cooperative is in fact belong to the victims who have been paid to join the time deposits program and received proof of payment in form of certificates of time deposits which contains payments of money for taking part in the savings program received by Intidana Cooperative

e. The element of the item in his authority is not from crime.

The money from the victims and the witnesses are submitted to the Head of Intidana Cooperative which is Suspect Mr. Handoko, SE for time deposits but the money was used to buy certificate on behalf of the suspect instead.

2. Element which done by a person;

In this case, the suspect mentioned in this element is the person who allegedly committed an embezzlement due to his position, which is Mr. Handoko, SE as the Head of KSP Intidana (element fulfilled).

3. Element which authority of the goods is caused by their work relationship or because of its livelihood or being paid for it

This element refers to Mr. Handoko, SE as the head of KSP Intidana who embezzled money from the depositors of KSP Intidana and used it to buy the Land Ownership Certificate on behalf of the suspect Mr. Handoko, SE.

The jurisprudence of a verified cooperative case is a Cipaganti Cooperative Fraud Case It is known that the Supreme Court (MA) is

correcting the court's verdict under it related to the case of the Cipaganti cooperative's deceived fraud. This case makes hundreds of people deceived by the amount of hundreds of billions of dollars.

Cipaganti is a cooperative which was established on February 15, 2002. It turns out later the management of this cooperative is problematic. Dozens of members of the cooperative felt disadvantaged with the system built so that members of the cooperative complained to the police case. Beforehand, the investigator put four people to account for his actions. They are:

1. Founder of Cipaganti Group, Andianto Setiabudi (54).
2. Vice Chairman of Cipaganti Cooperative, Julia Sri Redjeki (63).
3. Treasurer of Cipaganti Cooperative, Yulinda Tjendrawati Setiawan (46).
4. Employee Cooperative Cipaganti, Cece Kadarisman (59). (data source: detik.com, 2016).

The four are charged with Banking Law and Article of Fraud and Embezzlement according to the Criminal Code. Prosecutors demanded each of them to be sentenced to 20 years in prison and a fine of Rp 200 billion each or a total of Rp 800 billion.

On this demand, on July 15, 2015 the Bandung District Court sentenced each of the following:

1. Andianto Setiabudi sentenced to 18 years in prison and a fine of Rp 150 billion.
2. Julia Sri Redjeki sentenced to 8 years in prison and a fine of Rp 15 billion.
3. Yulinda Tjendrawati Setiawan was sentenced to 6 years in prison and a fine of Rp 15 billion.
4. Cece Kadarisman was sentenced to 10 years in prison and a fine of Rp 15 billion. (data source: detik.com, 2016).

On October 21, 2015, the High Court (PT) Bandung aggravated the defendants' sentence to:

- a) Andianto Setiabudi sentenced to 18 years in prison and a fine of Rp 150 billion.
- b) Julia Sri Redjeki sentenced to 15 years in prison and a fine of Rp 100 billion.
- c) Yulinda Tjendrawati Setiawan was sentenced to 15 years in prison and a fine of Rp 100 billion.
- d) Cece Kadarisman was sentenced to 10 years in prison and a fine of Rp 75 billion.

Knowing the verdict, Andianto et al appealed. But the Supreme Court rejected the defendant's appeal. Rejected the appeal of the public prosecutor (prosecutor) with repairs, and the Case No. 173 K / PID.SUS /

2016 was drafted by a panel of judges consisting of Supreme Court judge Artidjo Alkostar, Supreme Court judge Prof. Surya Jaya and Supreme Court judge Sri Murwahyuni. Sitting as a substitute clerk in the verdict on March 29, 2016 was Retno Murni Susanti.

Improvement in question is the asset used as evidence seized and given to customers. The assets are assets presented by the prosecutor to be used as evidence, namely: (1) Five Mercedes-Benz buses, (2) Six minibus brand Isuzu, and (3) Four Komatsu brand heavy equipment.

Currently, West Java Regional Police has established a new status against Andianto, a suspected money laundering case (TPPU) in the case. Andianto has objected to the determination of the new suspect and filed a pretrial to the Bandung District Court. But the single judge Kartim rejected the pretrial on December 31, 2015. Kartim reasoned evidence of investigation letter related to TPPU by West Java Police investigators and all asset seizures are valid or true.

## CONCLUSION

BASED on the results of the research and study, it can be concluded that the implementation of the investigation process against the perpetrator of crime act fraud and/or embezzlement within KSP Intidana in Central Java's Regional Police was held after a Police Report Number: LP/B/426/XI/2015/Jateng/Reskrimum, November 5th, 2015 and Task/Inquiry Letter Number: 336b/XI/2015/Dit Reskrimum November 17th, 2015 and Investigation Order Number: 336a/XI/2015/DitReskrimum November 20th, 2015. The next step taken by the Police is by doing summon and examine the victims or witnesses, arresting the suspect, detention of the suspect and the seizure of evidences. The investigation process which done by the investigators and assistant investigator begun by calling the person who made the report and fulfilling the administration of preliminary investigation and then examined the witnesses and gathering the evidences, determining, seeking, and conducting an inspection to the suspect by arresting and detention of the suspect. The dimension of criminal law enforcement in conducting the investigation against the perpetrator of crime act of fraud and/or embezzlement within KSP Intidana in Central Java's Regional Police is to minimize the occurrence of the similar crime act, in this case for the suspect in the future because the crime act of fraud and embezzlement can be punished by the law of fraud and embezzlement.

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