

Criminal Liability of Participants in the Commission of the Crime of Fraud (A Study of Decision Number: 46/Pid.B/2021 PN MGG)

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ABSTRACT

Fraud is a criminal offense against property, primarily regulated under Article 378 of the Indonesian Criminal Code (KUHP). This crime may be committed jointly with others, known as participation. The criminal liability of each participant can vary based on their role and involvement. This study applies a normative legal research method using secondary data from literature studies, analyzed through qualitative descriptive analysis. Based on the findings in Decision No. 46/Pid.B/2021/PN Mgg, the defendants fulfilled the criteria of criminal responsibility (actus reus) by committing acts prohibited under Article 378 in conjunction with Article 55(1) to 1 of the Criminal Code, consistent with Hans Kelsen's theory of legal responsibility. Gustav Radbruch's theory of legal certainty further emphasizes that law must be both certain and fair, taking into account all relevant aspects of the case. The panel of judges found the defendants legally and convincingly guilty of jointly committing fraud. Consequently, sentences of one year and ten months, and one year and two months of imprisonment were imposed. The judge's considerations included legal grounds, trial facts, witness testimonies, evidence, judicial conviction, and applicable criminal sanctions.

KEYWORDS

Criminal Responsibility, Participation, Criminal Acts



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INTRODUCTION

We all know that Indonesia is a country based on law; therefore, all aspects of the implementation and administration of the state are regulated in a system of laws and regulations. Thus, the state carries out its duties based on the Constitution or the State Constitution and other legal regulations (Harding, 2024; Sajó & Uitz, 2017).

There are several branches of law, one of which is public law, namely criminal law. Criminal law regulates violations and crimes against the public interest—acts that are threatened by law and result in suffering or punishment. From this definition, it can be concluded that criminal law does not introduce new norms but rather regulates violations and crimes against existing legal norms that concern the public interest. Based on this, criminal law exists to sanction criminal acts committed by individuals who violate the law (Maculan & Gil Gil, 2020).

The purpose of criminal law is to prevent acts leading to crime—both for those who have previously committed offenses and those who have not. The intent of the author here is that criminal law serves as a means to monitor, supervise, and prevent recidivism for those who have committed crimes, and to provide guidance and understanding to those who have not, so that they avoid engaging in actions that may lead to criminal behavior. If an act (feit) fulfilling a criminal formulation is committed or leads to a similar action prior to the enactment of the relevant legal provision, then the person cannot be convicted or prosecuted (Abdul Hadi & Paino, 2016; Robinson & Darley, 2019; Tedjokusumo & Siswanto, 2023). This is in line with

the principle of legality, which regulates that acts must be expressly determined as offenses by law.

Based on Article 1 paragraph (1) of the Criminal Code (KUHP), the principle of legality is formulated in the Latin adagium *nullum delictum nulla poena sine praevia lege poenali*, which means “no act can be punished without a pre-existing criminal provision regulating it.” Thus, criminal law ensures certainty and legal protection for society. Criminal acts themselves represent forms of deviant behavior that naturally occur and are inherent in social life since no society is entirely free from crime. This deviant behavior poses both real and potential threats to social norms and order, potentially causing tension both individually and socially (Gibbs, 2017; Gueirra, 2020; Najafov, 2025; Tittle, 2018). In line with Marc Ancel’s view that crime is a human and social problem, it should not only be regarded as a legal matter but also as a humanitarian and social issue. Essentially, the occurrence of criminal acts is influenced by various factors—internal factors such as psychological conditions and heredity, and external factors such as family circumstances and the social environment (Mezghiche, 2025). In addition, strong personal will, opportunity, and weak moral or religious values also contribute to a person’s tendency to commit crimes.

According to Prenzler (2021) and Kelly (2018), Those held accountable in criminal law are not only punished but are also considered morally and legally responsible for their actions. Accountability does not merely mean being “rightly punished” but also “rightly answerable.” Hence, criminal liability refers to the condition of the offender at the time of committing the crime and to the connection between the offender, the act, and the appropriate sanction.

Criminal acts are divided into two categories: crimes regulated in Book II of the Criminal Code and violations regulated in Book III. Among these, crimes are the more prevalent issue in society. However, the interpretation and usage of the term crime differ across contexts, as its meaning is shaped by societal values and norms (Meijer et al., 2021; Sherefetdinova, 2024; Ulmer, 2019).

Various types of crimes exist depending on their targets. As stated by Sayyah and Amirian, crimes can be classified according to their targets, namely: crimes against the body (murder, rape, persecution), crimes against property (robbery, theft, fraud), crimes against public order (drunkenness, gambling, illegal racing), and other crimes that threaten state security (Sayyah & Amirian, 2024). A minor portion of rising crime rates can be attributed to several causal factors, mostly the inability or unwillingness of individuals to change their negative mindsets.

Fraud is one of the most frequently occurring crimes in society, committed by both local and external actors. With evolving mindsets, modernization, and rapid technological advancement, fraud has become increasingly sophisticated, making detection and prevention more challenging (Bello & Olufemi, 2024; Gupta et al., 2024; Ikemefuna et al., 2024). Therefore, the public must exercise heightened caution, particularly in digital-based activities. Law enforcement must also act decisively and transparently in combating fraud, supported by enhanced legal education, especially for those with limited technological literacy. Fraud, as a crime against property, is explicitly formulated in Article 378 of the Criminal Code, which regulates acts of fraud (*oplichting*), characterized by the intent to unlawfully benefit oneself or others through deceit or a series of lies. In practice, fraud is not always a solitary act but often involves collaboration or assistance from others, known as participation in criminal acts

(deelneming), as stipulated in Articles 55 and 56 of the Criminal Code. These provisions affirm that every party involved—whether as a perpetrator, facilitator, or accomplice—may be held criminally liable according to their role and degree of involvement. This introduces significant legal questions concerning the determination of criminal liability for each participant in fraudulent acts.

One example of such a case occurred within the jurisdiction of Tanjung Jabung Timur, Jambi, under Decision Number 46/Pid.B/2021/PN Mgg, involving Defendants I Purnomo and II Antori. Purnomo met Antori to request help in obtaining a fake ID card (Identity Card) using his own photo. Antori then contacted a friend to make a counterfeit ID card in the name of Sukmawan. Purnomo and his friend sought a car rental to pawn, agreeing to split the proceeds equally. Subsequently, Purnomo and his friend met Antori to collect the fake ID card and informed him that it would be used to rent a car in East Tanjung Jabung, which they planned to sell. They pretended to rent a Daihatsu Terios belonging to the victim, Supadi, for one day, providing as collateral one motorcycle, one fake ID card, and a down payment of Rp 250,000 (two hundred and fifty thousand rupiah). Later, Purnomo contacted Antori again to find a buyer for the car. After locating the buyer, Purnomo transported the vehicle to Pangandaran, where it was sold for Rp 35,000,000 (thirty-five million rupiah).

In this case, the actions of Rudianto, Sumardi, and their associates caused the victim to suffer a loss of Rp 150,000,000 (one hundred and fifty million rupiah). The matter proceeded to court, where the judge found Purnomo and Antori legally and convincingly guilty of jointly committing fraud.

The research problem in this study focuses on two primary aspects: the form of criminal responsibility for participants in fraudulent acts and the judicial considerations in sentencing as reflected in Decision Number 46/Pid.B/2021/PN Mgg. Consistent with this formulation, the study aims to analyze and understand the criminal liability of individuals participating in fraudulent acts and to examine the reasoning behind the judge's verdict. The study's contribution is both theoretical and practical—serving as scientific information to enhance knowledge of criminal law, particularly regarding the accountability of participants in fraud, and as a reference for future research. Practically, the findings are expected to provide a benchmark and insight for the public and law enforcement on applying criminal sanctions, determining accountability, and evaluating judicial considerations in fraud cases committed jointly.

METHOD

This research employs a normative legal research method, which focuses on the study of literature sources or secondary data related to the legal issues being examined. Normative legal research is often referred to as literary law research or dogmatic legal research because it concentrates on applicable legal norms, principles, and rules. Through this method, the research aims to analyze the criminal liability of perpetrators who participate in committing fraudulent crimes, as well as the basis of the judge's considerations in imposing a verdict in Decision Number 46/Pid.B/2021/PN Mgg, in accordance with applicable legal provisions.

The research approaches applied in this study include the conceptual approach, legislative approach, and case approach. The conceptual approach is used to examine criminal law concepts, principles, and doctrines relevant to the issues of criminal liability and Criminal Liability of Participants In The Commission of The Crime of Fraud (A Study of Decision Number: 46/Pid.B/2021 PN MGG)

participation in fraudulent crimes. The legislative approach is conducted by systematically reviewing and cataloging related laws and regulations, both vertically and horizontally. Furthermore, the case approach is employed by using court decisions—particularly Decision Number 46/Pid.B/2021/PN Mgg—as the primary reference to analyze the concrete application of law by judges.

The types and sources of data used in this study consist of secondary data, including primary, secondary, and tertiary legal materials. Primary legal materials encompass laws and regulations that have binding legal force, such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code, the Law on Judicial Power, and relevant judicial decisions. Secondary legal materials include law books, scientific journals, jurisprudence, and academic writings related to criminal liability for perpetrators who participate in fraudulent acts. Tertiary legal materials serve as supporting sources, such as legal dictionaries and encyclopedias, which provide clarification and explanation of primary and secondary legal materials.

The data collection method is conducted through literature and documentary studies by examining various laws and regulations, books, journals, research findings, and other legal documents relevant to the research topic. Furthermore, the data analysis method used is qualitative analysis employing a deductive logic approach, which involves drawing conclusions from general legal principles and applying them to specific problems. The analysis is performed through grammatical, systematic, historical, and authentic interpretation of laws, regulations, and judicial decisions to derive comprehensive conclusions addressing the legal issues studied.

RESULT AND DISCUSSION

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The definition of responsibility can literally be interpreted as a state of obligation to bear everything in the event of something that can be sued, invited, or litigated, or as a right that functions to accept a burden as a result of one's behavior toward another party (Ananda, 2009). The concept of legal liability is related to accountability for actions taken by a person or group that are contrary to the law. According to Hans Kelsen, a concept related to legal obligation is the concept of legal liability, which means that a person is legally responsible for a specific act or bears legal liability by subjecting a person to a sanction if they perform a contrary act.

The concept of criminal responsibility has a broad meaning within the field of criminal law because it encompasses issues of guilt, accountability, and punishment—each of which must align with moral, religious, and legal contexts. These three aspects are interconnected and share a common foundation, consisting of behavioral norms collectively adopted by society, which give rise to the concept of guilt, responsibility, and punishment. This interrelation illustrates the emergence of a conceptual framework rooted in a normative system. Criminal liability refers to the process of determining the guilt of a person who is a suspect or defendant in connection with the crime committed. Criminal offenses are essentially decisive within the legal system in determining whether a person should be acquitted or convicted.

In foreign terminology, criminal liability means responsibility or criminal liability. Regarding criminal law responsibility, there is an important principle stated in Article 1 paragraph (1) of the Criminal Code (KUHP), which provides that “an act is only a criminal act

if it has been determined as such in advance by a legal provision.” Criminal liability thus serves as the basis for determining whether a person should be released or convicted. According to Roeslan Saleh, criminal liability is defined as the continuation of objective reproach that exists in a criminal act and is subjectively qualified for the imposition of punishment upon the perpetrator.

The concept of responsibility plays an essential role in determining the outcome of a criminal case, as it directly influences the decision on whether a person should be acquitted or convicted. In particular, when assessing a person’s criminal responsibility, certain criteria must be met to establish their capacity for accountability. Some of these elements are discussed as follows:

1) Mistakes (Intentional and Omission)

The elements of fault in criminal liability include intentionality (*dolus*) and negligence (*culpa*). Intentionality includes the will and awareness of the perpetrator of the act and its consequences, both in the form of intentionality as an intention, intentionality as a means to achieve a certain goal, or intentionality with awareness of the possibility of consequences (*opzet met waarschijnlijkheidsbewustzijn*). Meanwhile, negligence is divided into conscious negligence, namely the perpetrator is aware of the potential consequences but does not prevent them, and unconscious negligence (*onbewuste schuld*), which is when the perpetrator is unaware that his actions can cause consequences that are prohibited by law.

2) The Existence of Responsible Ability

The perpetrator of a criminal act must be in a normal and healthy state of psychiatry so that he is able to understand and control his actions in accordance with the norms that apply in society. This ability to be responsible is the main requirement for a person to be held criminally responsible, because without adequate psychiatric conditions, the perpetrator cannot be considered responsible for his actions.

3) Absence of Justification and Excuse

Criminal liability can only be imposed if there is no justification or excuse that eliminates the unlawful nature or fault of the perpetrator. Justifications are regulated in various provisions of the Criminal Code (KUHP), such as acts committed under the law or for certain legally justified interests, while excuses for forgiveness relate to the perpetrator’s condition that removes guilt, such as mental disorders or situations of coercion. If these grounds are not fulfilled, the perpetrator can be held fully criminally responsible.

In addition to proving the elements of the act, there must be an essential element that gives rise to the imposition of criminal liability on the perpetrator—the element of guilt. Its presence is closely linked to the mental state of the offender, which in the doctrine of the common law system is known as *mens rea* or “malicious intent.” This element of guilt must exist simultaneously with the perpetrator’s act (*actus reus*).

Criminal acts have an abstract meaning derived from concrete events in the field of criminal law. Therefore, criminal acts must be scientifically and clearly defined to distinguish them from terms used in everyday language. According to Pompe, *strafbaar feit* provides two types of definitions—one theoretical and one legislative. He explained that the theoretical definition of *strafbaar feit* is as follows: “*Strafbaar feit* is a violation of norms (a disturbance of the rule of law) that has been intentionally or unintentionally committed by an offender, where the punishment of the perpetrator is necessary for maintaining legal order and ensuring Criminal Liability of Participants In The Commission of The Crime of Fraud (A Study of Decision Number: 46/Pid.B/2021 PN MGG)

the public interest, or as normovertrading (vertorting der rechtsorde), to which the offender is guilty and for which the punishment is appropriate to uphold the rule of law and promote the general welfare.”

Therefore, the term *strafbaar feit* refers to an event or act that can be punished, while *delik*—derived from the foreign term *delict*—means an act whose perpetrator can be penalized. In his writings, Andi Hamzah explained that criminal acts are human behaviors formulated in law as unlawful acts that are punishable and committed with fault.

According to the views of criminal law scholars in the formulation of *strafbaar feit*, there is general agreement that the concept does not separate the act and its consequences on one hand from responsibility on the other. A.Z. Abidin referred to this approach as the monistic school of delinquency. Based on this formulation, a criminal act (*strafbaar feit*) contains several essential elements, namely:

- a. A human act
- b. The act is prohibited and punishable by law
- c. The act was done by someone who could be held accountable

Therefore, it can be concluded, according to the author, that for a person to be convicted, the elements of a criminal act must be fulfilled in accordance with the Criminal Code (KUHP). If the elements of a criminal act are not met, then the person cannot be sentenced or will be declared free from punishment because they are deemed not to have committed a crime or caused harm to others.

According to Roeslan Saleh, whether a person who commits an act can be punished depends on whether, at the time of committing the act, there was fault or not. If fault exists, then the person can be subjected to criminal sanctions. However, if an act is prohibited and reprehensible yet committed without fault, the offender shall not be punished.

Criminal liability arises only after a person has committed a criminal act. There can be no criminal liability without the prior commission of a crime. Thus, a criminal act stands distinct from criminal liability or the element of guilt. For a person to bear criminal responsibility, it is not enough that they have merely committed a prohibited act or violated a legal obligation. The Public Prosecutor must also prove that the perpetrator possessed *mens rea*—a malicious or culpable intent—which is a characteristic element recognized in nearly all legal systems. The form of responsibility borne by the perpetrator is always linked to certain mental or intentional conditions. The determination of liability for a criminal act also depends on whether a legal subject is responsible for such an act. Therefore, criminal responsibility not only concerns the individual perpetrator but also depends on whether laws and regulations explicitly prohibit the act and attach a corresponding criminal sanction to it. This principle aligns with the principle of legality contained in Article 1 paragraph (1) of the Criminal Code (KUHP), which states that no act may be punished except under the authority of an existing criminal law.

More than one person may be involved in a single criminal act. Criminal law regulates this under the provisions concerning participation in the commission of offenses. Article 55 of the Criminal Code (KUHP) outlines several forms of participation in committing criminal acts, namely:

- a. Perpetrator (morning)
- b. Doenpleger

- c. Participate in doing (madedader / medepleger)
- d. Persuasion (provocateur)

In Article 55 of the Criminal Code (KUHP), it is stated that all persons involved in committing a crime are punishable, including the instigator, persuader, and participant in the act, who are all considered perpetrators or creators of a criminal offense; therefore, the criminal sanction imposed on them is the same. However, for those who merely assist in committing a crime, the prescribed punishment is reduced by one-third.

In cases of participation in the form of collaboration, cooperation between those who directly commit the act (pleger) and those who jointly commit it (medepleger) is considered absolute. In other words, the offense can only occur through cooperation—without such cooperation, the offense would not materialize. The author refers to this as “close cooperation,” although it is acknowledged that not all participants must act simultaneously or in the same location.

However, mere cooperation is not sufficient grounds to hold participants criminally liable. The cooperation must arise from awareness or knowledge (*willens en wetens*). In other words, cooperation in participation must be carried out intentionally (*opzettelijke*).

Furthermore, once intentionality in cooperation is established, it must also be accompanied by intentionality concerning the crime itself. In criminal law literature, this is referred to as “double intention” or double *opzet*. The first intention pertains to cooperation—awareness or understanding among the parties involved. The second pertains to the crime itself—awareness or knowledge shared by all participants that their collaboration serves to realize a criminal act.

Every offense committed by more than one person is assessed based on each participant’s involvement, whether as an instigator, accomplice, or joint offender. The judge, in determining sentencing, evaluates the degree of participation and culpability of each perpetrator.

Among the various forms of criminal acts, one that frequently occurs in society is fraud. Juridically, the provisions on fraud are contained in Article 378 of the Criminal Code (KUHP), which stipulates:

“Whoever, with the intention of unlawfully benefiting himself or others, by using a false name or false capacity, by deceit, or by a series of lies, induces another person to hand over an item to him, give a loan, or write off a debt, shall be guilty of fraud and subject to a maximum imprisonment of four years.”

In Decision Number 46/Pid.B/2021/PN Mgg, involving Defendant I Purnomo and Defendant II Antori, both were found to have jointly committed fraud in the following case: Purnomo approached Antori to seek assistance in finding someone capable of producing a fake identity card (Identity Card) using Purnomo’s photograph. Antori then contacted an acquaintance to create a counterfeit ID card under the name Sukmawan. Purnomo and his friend sought a car rental to pawn, agreeing to divide the proceeds equally, and Purnomo consented to this arrangement. Subsequently, Purnomo and his acquaintances met Antori to collect the fake ID card and informed him that it would be used as a rental guarantee for a car in the East Tanjung Jabung, Jambi, area, with the intent to sell the vehicle later. Purnomo and his associates pretended to rent a Toyota Terios car belonging to the victim for one day with collateral consisting of one motorcycle, one fake ID card, and a down payment of Rp 300,000 (three hundred thousand rupiah). Later, Purnomo contacted Antori to find a buyer for the rented

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Terios. After Antori located a buyer, Purnomo transported the car to East Tanjung Jabung and sold it for Rp 35,000,000 (thirty-five million rupiah). As a result of the actions of Purnomo, Antori, and their accomplices, the victim suffered a financial loss of Rp 165,000,000 (one hundred and sixty-five million rupiah).

Based on the above case, the defendants were found guilty of committing fraud under Article 378 of the Criminal Code (KUHP) in conjunction with Article 55 paragraph (1) point 1. In describing the formulation of a criminal act, it can be seen that a human act is performed which constitutes conduct prohibited by law. The elements of Article 378 of the Criminal Code (KUHP) are as follows:

a. Who element

In this term, the meaning of the word who's who is the equivalent of the word every person who points to the subject of the criminal act who must be responsible for the act/incident charged or at least about who is the person who should be made a defendant in this case. That in this case, the defendants Purnomo and Antori with identities as stated in the Public Prosecutor's Indictment where the identities were justified by the witnesses and the defendants themselves.

b. Elements with the intention to benefit oneself or others unlawfully

The nature of fraud as a fraudulent offense is determined by the ways in which the perpetrator moves others to hand over goods. What is meant by the element of benefiting oneself or others is any improvement in the position or fate of life obtained or achieved by the perpetrator. While against the law means that it is contrary to the law. That the defendants sold the car they rented without the permission of the owner, so that they suffered a loss of Rp 165,000,000.00 (one hundred and sixty-five million rupiah).

c. As for the use of false names or false dignity, by deception or a series of lies, it moves others to hand over something to him, or to give debts or write off receivables

This element is alternative in nature; therefore, if one of the elements is fulfilled, the other does not need to be proven. Deception itself refers to an act that can be perceived by another person, whether accompanied or not accompanied by words, which by such an act induces belief or confidence in something that, in reality, does not exist.

In the above case, the defendants committed a series of deceptions. Defendant Antori assisted Defendant Purnomo in producing a fake identity card and finding a buyer for the car, while Defendant Purnomo rented the car using the fake identity card and provided collateral in the form of a motorcycle and a rental payment of Rp 350,000.00 (three hundred and fifty thousand rupiah), thereby deceiving the rental party into believing him without suspicion.

Based on the description of Article 378 of the Criminal Code (KUHP) above, the author believes that the defendants have been legally and convincingly proven to have committed the crime of fraud. Furthermore, the defendants jointly committed the act of fraud in conjunction with one another as described in Article 55 paragraph (1) point 1 of the Criminal Code (KUHP), which includes those who commit, instruct to commit, and participate in committing a criminal act. Those who participate in committing acts (*medeplegen*) are individuals who jointly commit an offense involving two or more persons, where each participant's role need not be simultaneous, as long as mutual understanding exists among them regarding the actions, conduct, or contributions made. Thus, such coordinated conduct must be recognized as participation. In this case, it is evident that the defendants, Purnomo and Antori, established

close cooperation—Defendant Purnomo successfully persuaded the rental party to rent the car using a fake identity card prepared by Defendant Antori, which enabled them to sell the car unlawfully and cause financial loss to the owner.

In criminal law literature, this concept is known as “double intention” or double opzet. The first intention refers to the cooperation itself—that is, the awareness or knowledge among the cooperating parties. The second intention relates to the crime, namely the shared awareness among them that their cooperation is directed toward realizing a criminal act.

In this case, Defendant Purnomo and Defendant Antori were proven to have engaged in deliberate and coordinated cooperation. Defendant Purnomo successfully convinced the car rental party to rent the vehicle using a fake identity card prepared by Defendant Antori, thereby satisfying the first intention. The second intention, directed at the commission of the crime, was also present, as both defendants shared the same intent—to sell the rented car without the owner’s knowledge, thereby causing harm to the rightful owner.

In law, responsibility arises as a consequence of a person's freedom of action, which is inherently linked to ethics or morals in performing an act. Furthermore, according to the Quarterly Point, accountability must have a clear basis, namely that which constitutes the legal right of one party to sue another and the corresponding legal obligation of the other party to provide accountability.

Based on the theory of criminal liability, Hans Kelsen in his theory of legal responsibility states: “A person is legally responsible for a particular act, or bears legal liability, when the subject may be subjected to a sanction in the event of engaging in a contrary act.” Furthermore, Hans Kelsen adds: “Failure to exercise the care required by law is called negligence; and error is usually regarded as another form of guilt (*culpa*), though not as severe as guilt resulting from the anticipation and intent of wrongful consequences, whether with or without malicious intent.”

Having fulfilled all the elements stipulated in Article 378 of the Criminal Code (KUHP) jo Article 55 paragraph (1) point 1 of the Criminal Code (KUHP), the defendants must be declared legally and convincingly proven to have committed the crime of fraud. During the trial, the Panel of Judges found no justification or excuse for forgiveness. The defendants were found to be mature, physically and mentally sound, and fully aware of their actions. Therefore, the defendants must be held criminally accountable for their fraudulent acts, as stipulated in Article 378 of the Criminal Code (KUHP) jo Article 55 paragraph (1) point 1 of the Criminal Code (KUHP).

The Judge's Consideration in Imposing a Decision on the Perpetrator of a Criminal Act Who Participated in Fraud in Decision Number: 46/PID. B/2021PN MGG

In judicial proceedings, trials are always presided over by a judge who holds the authority to decide cases in court. In delivering a verdict, the judge exercises judicial power (*kekuasaan kehakiman*), as stipulated in Law Number 48 of 2009 concerning Judicial Power. Judicial power can be interpreted as the authority, in a given concrete situation, to determine the legal value of citizens' actions or specific circumstances based on positive legal principles, and to attach certain legal consequences to those actions or circumstances.

Article 3 paragraph (2) of the Law on Judicial Power regulates the independence of judges in adjudicating criminal cases, stipulating that judicial decisions cannot be influenced by any party and are free from interference by any institution. Through this judicial Criminal Liability of Participants In The Commission of The Crime of Fraud (A Study of Decision Number: 46/Pid.B/2021 PN MGG)

independence, it is expected that justice will be achieved in accordance with the principles of humanity and social justice. Disparity in sentencing is closely related to the freedom of judges when deciding cases involving multiple defendants who have committed similar crimes. Regarding judicial discretion in imposing sentences, Sudarto explained that judicial freedom should not lead to conspicuous inequality that causes discomfort (*onbehagelijk*) in society. Therefore, sentencing guidelines within the Criminal Code (KUHP) are essential to minimize inconsistency, even if they cannot eliminate it entirely.

Judges, in carrying out their duties, possess independence from external interference, known as independent judicial power. This independence ensures that judicial decisions are objective and impartial. The objectivity of a judgment means that the judge's decision must be based on honesty and a view that aligns with factual circumstances, adhering to generally accepted standards or criteria. Impartiality means that the decision must not favor either party, thereby guaranteeing a sense of justice for all litigants. In addition, an independent judicial decision directly provides legal certainty for society.

An important aspect of judicial decisions is their legal reasoning (*pertimbangan hukum*). This allows the public to evaluate whether a decision has a sound and objective basis (Harahap, 2017). A court ruling lacking sufficient legal consideration is akin to a judgment without a soul or substance. M. Yahya Harahap emphasized that legal reasoning is the essence of a judicial decision; it must contain a clear and detailed foundation (Harahap, 2017). A judgment without sound legal reasoning is incomplete.

Various types of crimes exist in Indonesia, one of the most common being fraud. This offense continues to evolve in form due to changing social conditions, technological advancements, and evolving patterns of thought. As technology becomes increasingly sophisticated, committing fraud has become easier. Therefore, the public must remain vigilant, and law enforcement must act firmly and transparently in handling fraud cases. Fraud is a criminal act classified as a crime against property.

Although crimes are often committed individually, they can also be carried out jointly or with the assistance of others. Committing a crime with others, or with assistance, constitutes participation in a criminal act, and this principle equally applies to fraud.

Decision Number 46/Pid.B/2021/PN Mgg examined the case of Defendants Purnomo and Antori, who jointly committed fraud. Around September 2025, Defendant Purnomo, along with associates, met with Defendant Antori to find someone capable of producing a fake identity card using Purnomo's photograph. Antori then contacted an acquaintance in the Ambarawa area to make a counterfeit ID card in the name of Sukmawan. The defendant's friend later suggested finding a car rental that could be pawned, with the proceeds divided equally, and Antori agreed. Subsequently, on Tuesday, September 20, 2025, in East Tanjung Jabung, Jambi, Defendant Purnomo and his associates met Defendant Antori to collect the fake ID card and informed him that it would be used as collateral for a car rental in West Tanjung Jabung, which they planned to sell. On Saturday, September 20, 2025, in West Tanjung Jabung, Defendant Purnomo and his associate rented one car belonging to the victim, Mr. Supadi, using collateral consisting of one Honda Beat motorcycle (with ignition key and registration certificate), one fake ID card under the name Kurniawan, and a down payment of Rp 350,000.00 (three hundred and fifty thousand rupiah). On September 28, Defendant Purnomo contacted Defendant Antori to find a buyer for the car. After finding one, Defendant Antori

informed Defendant Purnomo, who then took the car to West Muara Sabak, where it was sold for Rp 35,000,000.00 (thirty-five million rupiah).

The actions of Defendants Purnomo and Antori, along with their accomplices, in pretending to rent the car with such guarantees—one motorcycle, one fake ID card, and a Rp 350,000 down payment—successfully deceived the victim, Mr. Supadi, who handed over a Daihatsu Terios. As a result, the victim suffered a loss of Rp 165,000,000.00 (one hundred and sixty-five million rupiah).

Judges, in carrying out their duties, should not act merely as “funnels of the law,” limited to formal application of statutory provisions. Rather, they must ensure the full realization of justice. Judicial considerations form a critical aspect in determining the fairness of a decision grounded in justice (*ex aequo et bono*) and legal certainty. Judicial reasoning refers to the arguments or rationale used by the judge as a legal foundation before rendering a decision. The *ratio decidendi* of the judge represents the reasoning process that guides the outcome. Each judgment contains decisive reasons based on fundamental legal principles and philosophical considerations aligned with relevant statutory provisions. In imposing sentences, judges enjoy discretion in evaluating the appropriate degree of sanction but must always ensure that the punishment reflects justice for both the defendant and society.

The Panel of Judges in this case based its decision on both juridical and non-juridical (philosophical) considerations. Juridical considerations are based on facts revealed during trial proceedings, as stipulated by law, while non-juridical or philosophical considerations focus on the harmful and destabilizing impact of the crime on social order, national stability, and state security.

After examining both juridical and philosophical facts, the judge then considered additional factors before rendering a decision, including the public prosecutor’s indictment, sentencing demands, and all presented evidence.

In prosecuting the participation in fraud under Decision Number 46/Pid.B/2021/PN Mgg, the Public Prosecutor prepared an alternative indictment: (1) Article 378 of the Criminal Code (KUHP) jo. Article 55 paragraph (1) point 1 of the Criminal Code, and (2) Article 372 of the Criminal Code (KUHP) jo. Article 55 paragraph (1) point 1 of the Criminal Code. The Public Prosecutor then presented two witnesses, Muryadi and Davit Rianto, and submitted evidence consisting of one Suzuki Shogun motorcycle, one Samsung A7 mobile phone, one fake identity card with NIK 3304062608910003 in the name of Aditya Hermawan, and one BRI Bank ATM card number 6013 0140 7911 6938.

In the trial of the case Decision Number: 46/Pid.B/2021/PN Mgg, legal facts have been obtained, namely

- a. On Thursday, September 20, 2025 at around 15.00 WIB at the west Sabak estuary, Tanjung Jabung Timjur Jambi, witness Supadi had handed over/rented goods to the Defendant Purnomo in the form of 1 (one) unit of Daihatsu Terios car.
 - b. Then on Thursday, September 20, 2025 at 15.00 WIB, the defendant Purnomo and his friend named Antori (DPO) driving 1 (one) unit of Honda Beat motorcycle came to the house of the witness Supadi which is located in Talang Babat, West Muara Sabak District, East Tanjung Jabung, then the defendant Purnomo expressed his intention to the witness Supadi to rent a car belonging to the witness Supadi in the form of 1 (one) unit of Daihatsu Terios car for 24 hours with a rental agreement of Rp. 355,000,- (three hundred and fifty-
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five thousand rupiah) then Defendant I handed over a guarantee in the form of 1 (one) unit of Black Honda Beat Brand motorcycle, 1 (one) fake ID card with a photo of Defendant Purnomo in the name of Sukmawan, address Talang Babat Village RT 1RW 1, West Muara Sabak, East Tanjung Jabung Regency and a down payment of Rp 300,000.00 (three hundred thousand rupiah) to the witness Supadi but the witness Supadi believed and handed over the car to the Defendant Purnomo.

- c. The defendant Antori who helped make the fake ID card received a payment of Rp 850,000 (eight hundred and fifty thousand rupiah).
- d. The defendant Antori helped find the buyer of the car who was known to be named Joni, where then the car was sold by the defendant Purnomo to Joni in Talang Babat and sold for Rp 15,000,000.00 (fifteen million rupiah).
- e. In carrying out his act, Defendant I Purnomo was not only assisted by Defendant II Antori but also assisted by Sdri. Yuly (DPO), Mr. Budiman als Jombor (DPO), Mr. Manto (DPO) and Mr. Sahit (DPO). The Defendants in selling the car rented from Witness Supadi were without the knowledge of the owner so that in this case the witness Supadi suffered a loss of Rp 165,000,000.00 (one hundred and sixty-five million rupiah).

Then the Public Prosecutor filed a Claim which is basically as follows:

1) Proof of the Defendant's Guilt

The Panel of Judges stated that Defendant I Purnomo als Joko Wono and Defendant II Antori als Bro bin Mahmud were legally and convincingly proven guilty of committing the crime of fraud committed jointly as stipulated in Article 378 of the Criminal Code jo. Article 55 paragraph (1) 1 of the Criminal Code is in accordance with the Public Prosecutor's first alternative indictment.

2) Criminal Imposition

The Panel of Judges sentenced Defendant I Purnomo als Joko Wono bin Rahmad to 2 (two) years and to Defendant II Antori als Bro bin Mahmud for 1 (one) year and 6 (six) months, with the provision that the detention period that has been served is fully deducted from the sentence imposed and stipulates that the defendants remain in detention.

3) Determination of Evidence

Evidence in the form of a Honda Beat motorcycle and a Samsung Galaxy A5 mobile phone were confiscated for the state, while evidence in the form of a fake ID card and a BRI Bank ATM card were confiscated to be destroyed, because they were used as a means of committing fraudulent crimes.

4) Case Costs and Legal Considerations

The Panel of Judges determined that the defendants were charged with case costs of Rp2,500.00 each and based the verdict on the fulfillment of all elements of the criminal act in Article 378 of the Criminal Code jo. Article 55 paragraph (1) 1 of the Criminal Code, namely the elements of whom, the intention to benefit oneself or others unlawfully, the use of a false name or situation with deception or a series of lies, as well as the element of the person who commits, orders to do, or participates in committing an act.

That the Panel of Judges considered the following elements:

- 1) Element of Whom: The element of "whom" refers to a legal subject who is able to account for his or her actions legally. In this case, Defendant I Purnomo and Defendant II Antori were proven to be legal subjects who were capable of being responsible because they were

adults, physically and spiritually healthy, and able to provide information clearly and without pressure in the trial. The identity of the defendants was also justified by the witnesses and the defendants themselves, so that the Panel of Judges stated that the element of "who" had been met.

- 2) Elements with the Intention of Benefiting Themselves or Others Unlawfully: The defendants were proven to have the intention to benefit themselves and others unlawfully by renting a car belonging to witness Supadi using a false identity, then selling the car without the owner's permission. This act resulted in losses for the victim of IDR 165,000,000.00. Thus, the profits obtained by the defendants are unlawful and illegal, so this element is declared fulfilled.
- 3) Elements of Using False Names or Circumstances, Deception, or a Series of Lies: This element is fulfilled because the defendants commit a series of lies and deceptions, including by making and using fake ID cards, providing false guarantees, and submitting misleading information so that the victim believes and surrenders his car. Defendant II played a role in making fake ID cards and finding buyers, while Defendant I used the fake identity to rent a car, so that the victim was persuaded to hand over his belongings.
- 4) Elements of People Who Commit, Instruct to Do, or Participate in Committing Actions: Based on the facts of the trial, Defendant I and Defendant II were proven to be actively cooperating and having their respective roles in the criminal act of fraud. Defendant I played the role of the main perpetrator who rented and sold the car, while Defendant II played the role of helping by forging identities and finding buyers. The existence of this close cooperation shows that the defendants participated in committing criminal acts, so that the element of participation as per Article 55 of the Criminal Code has been fulfilled.

CONCLUSION

Criminal liability for the perpetrators participating in the criminal act of fraud in Decision Number 46/Pid.B/2021/PN Mgg has fulfilled the elements of criminal responsibility in accordance with the provisions of *actus reus*, since the defendants, Purnomo and Antori, committed acts prohibited under Article 378 of the Criminal Code (KUHP) jo. Article 55 paragraph (1) point 1 of the Criminal Code (KUHP). Furthermore, the element of *mens rea* was also established, as malicious intent was evident and proven before the Panel of Judges during the trial. Since both elements have been satisfied, criminal liability arises, and in accordance with these provisions, the defendants must be held accountable for their actions through the imposition of punishment or criminal sanctions.

The judge's legal considerations in imposing the sentence in Decision Number 46/Pid.B/2021/PN Mgg were as follows: Defendant I, Purnomo, was sentenced to imprisonment for one (1) year and ten (10) months, while Defendant II, Antori, was sentenced to imprisonment for one (1) year and two (2) months, as both were found guilty of jointly committing the crime of fraud under Article 378 jo. Article 55 paragraph (1) of the Criminal Code (KUHP). The judge's considerations in applying criminal sanctions to the perpetrators were appropriate, as they were grounded in both juridical and non-juridical reasoning, incorporating the facts revealed during the trial, witness testimonies, available evidence, judicial conviction, and relevant aggravating and mitigating factors in determining the final sentence.

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