

Juridical Analysis of Court Decisions Regarding Civil Lawsuits from a Civil Law Perspective

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ABSTRACT

The role of the head of the district court is to review and consider all requests for enforcement in their court in order to prevent any impediments to the enforcement of court decisions that have already attained permanent legal status. Thus, the objective of this paper is to identify the factors that impede the execution of court decisions with lasting legal effect. The research utilized the descriptive-analytical approach with a normative juridical emphasis. The study revealed that the primary reasons for delayed execution of court decisions with permanent legal force were due to limited availability of executors, budget constraints, opposition by third parties, and judicial review of decisions. << To overcome the challenges encountered in executing judicial decisions by the Supreme Court of the Republic of Indonesia, it is crucial to train State Civil Servants who are specialized in carrying out their functions effectively through education that is tailored to their role.

Keywords: Civil Law, Court, Juridicial

INTRODUCTION

Based on Law Number 48 of 2009 concerning the Supreme Court and Law Number 50 of 2009 concerning the General Courts, it is possible that there are things that could delay or cancel the execution of a civil case so that legally there is no guarantee that any request for execution will be submitted. by the winning party can be awarded instantly.

The Chairman of the District Court has duties and responsibilities for the implementation of every civil case in the jurisdiction under his leadership. This is because the judicial execution of every civil case is under the leadership of the Chairman of the District Court. The duties and responsibilities attached to the position of Chairman of the District Court require him to examine and review every request for execution submitted to the District Court he leads.

Whether or not each request for execution is granted is a right inherent in the position of the Chairman of the District Court as the first level judicial body in the jurisdiction where the lawsuit is decided. If the Chairman of the District Court feels that the request for execution can be granted, the Chairman of the District Court will immediately issue a decision addressed to the Registrar/Bailiff to carry out the execution.

The essence of execution is actually the application or implementation of the law that must be enforced. How the law should be enforced will depend on several influencing factors such as the lack of officers to carry out the execution

Furthermore, according to the author, legally the Chairman of the District Court can decide to postpone the execution if supporting legal facts are found based on the law. However, if we look at the interests of the Execution Petitioner, sociologically and economically, this form of statement can cause losses in time, costs and energy that have been spent, as well as causing embarrassment in society.

The Chairman of the District Court is obliged to consider all aspects contained in each execution request before the execution decision is issued, both juridical and non-juridical aspects. Juridical aspects that can influence the process of examining execution requests include, among other things, decisions that are not condemnatory or factually state that the property being executed does not exist or that the object of execution is in the hands of a third party. Meanwhile, one example of a non-juridical aspect that can be mentioned is related to humanitarian reasons.

Based on the narrative of Aristeus (2020), several research results show the fact that the process of resolving civil cases until they become legally binding still takes quite a long time. This is because there could also be mutations within the judiciary itself so that the Chairman of the District Court and the Panel of Judges examining the case in question are no longer at the District Court.

According to Yahya Harahap (2005), in an effort to consider all aspects of the execution request, the Chairman of the District Court requires quite a long time in addition to his duties and responsibilities as Chairman of the District Court. This obstacle is often a factor that influences negative views of the judiciary itself. No less a figure than former Supreme Court Justice M. Yahya Harahap, in one of his writings also contained several points of sharp criticism aimed at the Court, consisting of:

1. Dispute resolution is slow;
2. The cost of the case is expensive;
3. Unresponsive judiciary (Unresponsive);
4. The court's decision does not resolve the problem;
5. The court's decision is confusing;
6. Court decisions do not provide legal certainty;
7. The jury's abilities are generalist.

The critical material mentioned above is sufficient to provide a brief overview of the judicial process in Indonesia today. This shows that the current state (*das sein*) of justice is still far from what is actually desired from the Indonesian justice system (*das sollen*), namely a justice system that is fast, simple and low cost as stated in the provisions of Article 2 Paragraph (4) Law Number 48 of 2009 concerning Judicial Power.

The duties and responsibilities of this position require a Chief Justice of the District Court to overcome the gap between the facts on the ground and the ideals of the law itself. Its execution was hampered by the incompetence of implementing officers in the field.

Carrying out execution in the field is always an obstacle, which is hampered by a shortage of personnel in the field and inadequate costs. In fact, if you use the police, there must be additional costs for the management. Efforts that can be made by the Chairman of the District Court are to try to revitalize/reform executions in the field by preparing his own execution squad without having to ask the police. Because, in its implementation, the National Police only supports security.

The authority of the Chairman of the District Court to carry out executions is specifically regulated in Article 200 paragraph (11) of the updated Indonesian Regulations. This provision is actually an implementation of reforms that have been carried out by the Supreme Court but have not yet been fully achieved. The Supreme Court has actually established a number of internal policies and strategies to reform the judiciary.

It is the Chief Justice of the Supreme Court who orders the implementation of civil cases. Then the implementation is carried out by the clerk and bailiff. In this case, the Chief Justice supervises and is responsible from the time the request for execution is received until the execution is completed.

According to Subekti in Yahya Harahap, it is stated that execution is the implementation of a decision, which in the tenth chapter of chapter five states that execution is the implementation of a

decision. Executing a court decision means carrying out the contents of a court decision with the help of general power if the defeated party (executed party or defendant) does not want to carry it out voluntarily.

Civil law is the law that regulates the rights and obligations of the parties in a civil legal relationship. Civil Procedure Law is the law that regulates how to carry out the rights and obligations of the parties in a civil legal relationship.

Based on Muhammad's account (2006), the Criminal Procedure Code regulates how the injured party submits his case to court and how the attacked party defends himself and how the judge behaves towards the litigant. Apart from that, how do judges examine and decide cases so that they can be resolved fairly?

Civil cases can be viewed from various aspects. In civil cases, cases arise due to violations, a person's rights are regulated in civil law. The initiative in litigation comes from the injured party. The party who files a case in court is called the plaintiff, while the party being sued is called the defendant. Taking this into account, this article will focus on why there are obstacles to the implementation of court decisions that have permanent legal force and what steps the Supreme Court must take to overcome these obstacles.

RESEARCH METHODS

The method used in this research is a descriptive-analytic method with the main approach, namely normative juridical. Analytical descriptive has a definition as depicting and describing something that is the object of critical research by means of qualitative analysis. Because what we want to study is within the scope of legal science, a normative approach includes legal principles, synchronization of statutory regulations, including efforts to find law in concreto.

In normative juridical research, the use of a statutory approach is a definite thing. It is said to be certain because logically normative legal research is based on research conducted on existing legal materials. Even though, for example, research was carried out because it saw a legal vacuum, this legal vacuum can be identified because there are already legal norms that require further regulation in positive law.

The research specifications that will be used are descriptive-analytic which will provide an explanation of the procedures and implementation of the revitalization of the civil decision execution process in Indonesia in order to realize court excellence. This analysis was carried out juridically by examining relevant legal principles and theories to find a solution concept for revitalizing the process of implementing civil decisions in Indonesia in order to realize court excellence.

Because the approach method in this research is a legal approach, the data collection tool is focused on documents or library materials, in the form of legal materials obtained through literature study, including browsing (searching) on several internet sites.

RESULTS AND DISCUSSION

According to Swantoro (2020), Court Excellence is a provision that regulates an authoritative judiciary as regulated in the 1990 International Convention which must be implemented in Indonesia. In the Green Book, the Supreme Court Action Plan for 2020 to 2035 stipulates that all courts under the Supreme Court must be able to implement court excellence in their operations.

According to Abdul Jamal (2019), humans are destined to always live together for the sake of survival. For this reason, a law is needed whose provisions can regulate one's life, namely civil law.

So, civil law is a provision that regulates and limits human behavior in fulfilling their interests and needs, especially those related to individual interests.

In the Big Indonesian Dictionary, justice is everything that concerns complaint cases. Meanwhile, the court has many meanings, namely the council or panel that hears the case, the trial process, the decision of the judge who hears the case, the decision of the judge who hears the case, the case court, sometimes the judicial institution. interpreted the same as the court and sometimes expressed a different meaning. Meanwhile, according to the term, justice is an effort to seek justice and resolve legal disputes carried out according to certain regulations and institutions in court according to Nuh (2021).

Execution is the implementation of a Court Decision which has permanent legal force (in kracht van gewijsde) which is carried out by force because the losing party in the case does not want to comply with the implementation of the Court Decision. In other words, the implementation of the judge's decision or execution is essentially a manifestation of the obligation of the party concerned (the loser) to fulfill the achievements stated in the decision. However, in practice in the field, there is often resistance from the party to be executed against the state apparatus carrying out the execution according to Hartini, et al (2017).

In Article 195 HIR / Article 207 RBG it is stated: "The law on implementing District Court Decisions in a case examined at the first level by the District Court is on the orders and duties of the Chairman of the District Court." The District Court at the first instance examines the case according to the method specified in the HIR articles." Furthermore, Article 196 HIR/Article 208 RBG states: "If the losing party is unwilling or neglects to comply with the Court Decision peacefully, then the winning party in the case submits a request to the Chairman of the District Court to implement it. Court Decision". Then, the Chairman of the District Court summons his father-in-law and gives a warning (aanmaning) so that the losing party in the case complies with the Court Decision within a maximum of 8 (eight) days. Thus, the meaning of execution is a forced action carried out by the District Court against the losing party in a case so that the losing party in the case carries out the Court's Decision as it should.

Execution can be carried out by the Chairman of the District Court if there is a request from the party who won the case to the Chairman of the District Court. Before carrying out the execution, the Chairman of the District Court gives a warning or *warning* to the losing party in the case. So that within 8 days after the Chairman of the District Court gives a warning (aanmaning), the losing party in the case must comply with the Court Decision. If after eight days it turns out that the losing party in the case has not implemented the Court Decision, then the Chairman of the District Court can order the Registrar/Bailiff of the District Court to confiscate the execution. the land object in question and can then ask for assistance from state/police equipment to assist with security if the land object in question is vacated.

So, every decision that has legal force must still be implemented. However, in every execution, in general there is always a reaction to the request for a postponement of execution, especially from the defendant. The request for postponement was based on various reasons. In general, these reasons are irrelevant so insisting will only delay execution. However, sometimes this is based on strong reasons that need to be considered. Postponement of execution is casuistic and there is no standard for postponing execution. For example, if a judicial review will cancel a decision that will be executed, this can be used as a reason to postpone the execution.

Postponement of execution is an exception or exception to the general principles of execution law. According to Yahya Harahap, in granting a postponement of execution, don't be too excessive

without a fundamental reason. On the other hand, don't be too stingy in granting a request for a postponement, if the execution actually results in a violation of truth, law and justice.

For example, parties X and Y are in a lawsuit over a plot of land and the house on it. X's lawsuit was granted by being declared the owner and imposing a penalty on Y to vacate and hand over the land. When the execution was about to be carried out, Z filed a resistance by stating that the land belonged to him by submitting a request to postpone the execution to the court. When the case was examined, it turned out that Z had strong evidence. In fact, X is unable to rebut Z's refusal. And this is sufficient reason to grant a stay of execution?

Because from the results of the examination of the objection submitted by Z, it is estimated that the execution violated the truth and the law as well as justice. It would be different if the opposition presented a conspiracy between Y and Z. Delaying the execution for non-peaceful reasons is an extraordinary (unusual) delay according to Harahap (2005). If the execution goes smoothly without delay, public trust and the authority of the Court will increase. You can imagine how disappointed the execution applicant will be if the execution is postponed without good reason because to reach a decision that has definite force, requires a lot of time and money.

The execution can only be temporarily stopped by the Chairman of the District Court leading the execution. In cases where it is very urgent and the Chairman of the District Court is absent, the Deputy Chairman of the District Court can order a postponement of the execution. In order to supervise the course of justice, the Chairman of the High Court as a *voorzitter* (deputy) and the Supreme Court, can order that the execution be postponed or continued. In cases where it is very urgent and the Chairman of the High Court is unable to attend, the Deputy Chairman of the High Court can order a postponement of the execution.

The authority to postpone the execution or continue the execution rests with the highest leadership, namely the Chief Justice of the Supreme Court. In the event that the Chief Justice is absent, the same authority rests with the Deputy Chief Justice according to Harahap (2005). Opposition to the implementation of confiscation of movable and immovable goods is regulated in Article 207 paragraph (1) paragraph (2) HIR. The dispute is submitted and decided by the District Court in whose jurisdiction the decision must be implemented (Article 195 paragraph 6 HIR). Basically, this refusal does not delay the execution, unless the Chairman gives an order to postpone it until the District Court makes a decision (Article 207 paragraph (3) HIR).

Third party opposition to confiscation of collateral (*conservatoire*), confiscation of revindication, and confiscation of execution can only be submitted on the basis of property rights so it can only be submitted by the owner or person who feels he has the right. the owner of the confiscated property and handed it over to the Chairman of the District Court from the Court. The state actually confiscated (Article 195 paragraph (6) HIR).

Execution will be suspended if the refusal is justified. Third party opposition to confiscation of collateral is not regulated in HIR/RBG, but in jurisprudence. Disputes submitted by the Third Party as the owner of the confiscated goods can also be accepted in the event that the conservatorship confiscation has not been ratified (Supreme Court Decision dated 10-31-1962 Number 306K/SIP/1962).

Opposition as a reason for postponing the execution must be submitted before the execution is carried out. If the execution is complete, then there is no relevance in delaying the execution. Supreme Court Decision dated 31 August 1977 Number 697K/SIP/1974 stipulates that the formalities for filing an opposition to execution must be submitted before the auction sale is carried out (before the

execution is carried out). If the execution has been completed, the third party's efforts to cancel the execution must go through legal channels

In real executions, such as dismantling, emptying and handing over land and houses, the executed party often puts forward humanitarian reasons as the reason for postponing the execution. For certain cases, according to the author, it is also appropriate to postpone it temporarily so that the executor has the opportunity to find a new place.

This does not conflict with the provisions of Article 36 paragraph (4) of Law no. 4 of 2004 concerning judicial power which states "Court decisions are carried out with due regard for human values and justice". So, it does not conflict with the Pancasila philosophy.

However, if the stipulated temporary postponement period has passed, then implementation must also be carried out. Furthermore, what happens if the object that is the object of execution is still the object of dispute in another case that does not yet have definite force? What is the attitude of the Chairman of the District Court in handling cases like this? According to M. Yahya Harahap, in this case the guidelines are based on the principle of "casuistics".

This depends on the case and is not a priori in delaying execution. If the nature of the dependence on the goods to be executed is such that the case is still in the process of being examined, then the implementation must be postponed. It is better if the execution process is postponed due to the object of the goods to be executed until all cases have a final and binding decision. However, not all cases subject to execution are still dependent on the examination process of other cases, so this can be used as a reason for delaying execution. Even though the object of the execution is being sued in another case, the nature of the case does not prevent the execution and it is not appropriate to delay the execution.

Meanwhile, Supriatna (2020) stated that not all opposition from the executed party was in good faith. Many of the objections made by those who were executed were only an excuse to delay the execution. This is done with the hope that if there is a delay, the party being executed will have leeway to try to fulfill the decision.

Meanwhile, based on the Court Agung (2002) in this case, in order to speed up the resolution of executions that are delayed because they are involved in other cases, the way that the court can try is to speed up the resolution of cases that are still pending by asking the court to examine them. to as soon as possible decide the reasons for the case in question relating to the execution to be carried out

According to Yustianing (2014) there are two legal consequences of the opposition's decision to postpone execution in a civil case, namely:

1. The juridical consequence is that if the opposition party's decision to postpone the execution states that the opposition party cannot be accepted and/or rejected, then the juridical consequence is that the Chairman of the District Court issues a Determination of Execution regarding the object of the dispute. which will then be carried out by the clerk and bailiff,
2. The consequence for the parties is that the opposing party must hand over the object of the dispute to the opposing party. If the opposing party does not want to voluntarily release the object of the dispute then the Court will execute it. If a conflicting decision stating the rejection of a postponement of execution is accepted, the legal consequence is that the execution is temporarily postponed, while the consequence for the parties is that the opposing party remains in control of the object of the dispute. while the Opposite Party is

late from fulfilling its rights to realizing its implementation. A decision that states that resistance cannot be accepted, then the opposing party can submit another challenge to the District Court, if the resistance is felt by the Chairman of the District Court to only be intended to slow down the execution, then the Chairman of the District Court can immediately order the execution of the object of the dispute, even if the opponent submits another resistance. .

Almost every execution that is carried out is often faced with problems that arise which hinder the smooth execution. Things that cause delays in implementation include the following:

1. Fees must be paid because the amount has not been met by the applicant
The size of the costs depends on what execution actions will be carried out, how far the goods are located, whether the goods are scattered or not, and whether transportation is easy. Even if there are no advertising costs to open large areas of land with many residents, the costs are quite large. Automatically, if the applicant has not complied, then execution cannot be carried out. It would be different if the execution of a criminal case did not require costs like the execution of a civil case.
2. There is rejection from other people/third parties and reconsideration
For execution defendants, after the warning (Aan-maning) is received, if the warning period that has been determined does not fulfill the decision, then the execution will be carried out immediately. It is at this time that objections are usually raised, as in the case of third parties who generally only find out that an execution has been carried out after it has been announced in the newspaper or during the implementation in the field, the third party will raise an objection. filed a verzet after there was conflict

Article 195 paragraph (6) HIR stipulates that opposition to the implementation of the decision by the executed person or other person who recognizes the confiscated goods as his or her own, shall be filed and decided by the district court in whose jurisdiction the decision must be implemented. So it is clear that the law itself regulates resistance submitted by the defendant and other people.

However, Article 207 paragraph (3) HIR states that in principle the opposition will not postpone the execution unless the Chairman gives an order to postpone the execution until there is a decision from the District Court.

In practice, it is often the executor who files resistance, because the execution process is still ongoing and then sends a letter to the Chief Justice of the Supreme Court, either asking for legal protection or reporting the KPN in question. Likewise, if the execution is postponed due to resistance, the execution applicant complains to the Chief Justice of the Supreme Court because the execution is postponed.

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protection or reporting the KPN in question. Likewise, if the execution is postponed due to resistance, the execution applicant complains to the Chief Justice of the Supreme Court because the execution is postponed.

Likewise with Judicial Review. Often the execution respondent submits a request for judicial review so that the execution is postponed until the Judicial Review decision is issued and because the execution by the KPN continues, the execution defendant complains or asks for legal protection from the Chief Justice of the Supreme Court. On the other hand, if the execution is postponed due to a judicial review, the Execution Petitioner will complain to the Chief Justice of the Supreme Court.

Obstacles due to content/editorial decisions. Sometimes the editorial in a decision letter is unclear, which can give rise to various interpretations. This could happen, for example, because the Plaintiff/his attorney was not careful in preparing the editorial of the lawsuit request, while the judge only granted what was requested in the lawsuit petition.

When the execution was carried out, the applicant could not yet identify his assets. The second interpretation regarding the meaning of the absence of assets to be executed includes, among other things, the inability of the execution applicant to indicate where and what items will be executed. In this case, it cannot be ascertained whether the assets have been executed or not. However, the applicant for execution was unable or failed to show where and what property was executed.

This is in accordance with the legal obligations imposed on the applicant for execution, namely that he must be able to show the assets of the person being executed which will be the object of execution. As long as the applicant fails to identify the item to be executed, either physically or based on the identity and location of the item, then the execution cannot be carried out, the Chairman of the District Court has the authority to declare the request for execution. non-executable execution .

Item Displayed Not Found. The execution requester designates an object that will be used as the object of execution. However, when the execution was carried out, the bailiff did not clearly find the items intended. In such cases the execution cannot be carried out because the item to be executed "does not exist" or the item to be executed is "not found".

The implementation of court decisions in civil cases is carried out by clerks and bailiffs led by the chairman of the court as intended in Article 54 paragraph (2) of Law no. 48 of 2009 concerning Judicial Power. Execution is carried out on decisions that have permanent legal force, the following decisions are considered to have permanent legal force that can be implemented after the decision, including:

1. District Court decision that has been accepted by both parties in the case
2. Reconciliation Decision (acta van dading)
3. A verstek decision (without the presence of the defendant) which is not subject to a verzet or appeal
4. The High Court's decision was accepted by both parties without appeal
5. Supreme Court decision in cassation case

Decisions that have permanent legal force must be *comdenatuir* decisions or decisions that have a sentence order. Not all decisions that have permanent legal force can be executed, some decisions that have permanent legal force cannot be executed, namely:

1. Declaratory Decision, namely the judge's statement stated in the decision handed down. This statement is an explanation or determination of the rights and position in which the decision is included.
2. Constitutive decisions, namely decisions that guarantee a legal situation, either eliminating or creating a new legal situation.
3. The items to be executed do not match those stated in the decision.
4. The object of execution is unclear, does not exist, is destroyed, belongs to the state, the object is abroad.
5. A decision that is declared unenforceable by the Chairman of the District Court is based on an official report prepared by the bailiff who was ordered to implement the decision.

According to Haswandi in Hidayat (2021), the difficulty of the court in executing decisions regarding civil case objects that already have legal force continues to be a problem. Therefore, it is proposed to form a special unit at the Supreme Court (MA) so that the execution of civil case objects that already have legal force can still be carried out. Paying attention to the description above, to carry out the execution of court decisions that have permanent legal force, there are several execution problems that are often faced, including:

1. The Respondent refused the execution because it did not comply with the order.
2. The execution applicant refused because it did not meet expectations.
3. Both parties refused to be executed for various reasons.
4. The verdict is unclear.
5. The object to be executed is different from
 1. amar.
6. The decision covers parties who were not sued.
7. Executorial Verkoop covers all of the debtor's assets.
8. Execution confiscation and its follow-up
 2. auction.
9. Execution is related to delays in appeals and cassation.
10. Execution of defendants who have not filed a complaint
 3. appeal or cassation.
11. Repeat the wrong execution.
12. Confiscation again after the implementation is complete

CONCLUSION

The emergence of obstacles to the implementation of court decisions that have permanent legal force are delays in the implementation of the execution because the goods to be executed do not match those stated in the decision, the object of the execution is unclear, does not exist, has been destroyed, has become state property, the object is in abroad and there is still a lack of human resources for the State Civil Service to handle death executions and limited infrastructure support. Facing obstacles in carrying out the execution of court decisions that have permanent legal force, in the future the Supreme Court of the Republic of Indonesia must be able to prepare the State Civil Apparatus to carry out separate execution of these court decisions. State Civil Servants prepared by the Supreme Court must be provided with adequate education in accordance with their main duties and functions.

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