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Execution of Non-Executable Court Decisions in Case No. 757/Pdt.G/2022/Pn.Jkt.Pst

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ABSTRACT

Judges play an important role in upholding justice as they are responsible for resolving cases and ensuring that the law is applied fairly. While their decisions are necessary to resolve cases, the fact is that they cause controversy for many parties. Judges are expected to consider law, justice, expediency, and legal certainty in making decisions. This research topic is an important and necessary study to determine the causes of Decision No. 757/Pdt.G/2022/PN.Jkt.Pst being non-executable and the legal remedies for the execution of the decision. This research is a normative juridical research using primary legal materials and secondary legal materials to obtain a comprehensive understanding. Meanwhile, this research approach uses a statutory approach, conceptual approach and case approach. The result of this research is that the judge's decision in the case between Prima Party and General Election Commission was flawed in several ways. The decision exceeded the authority of the judge, did not provide legal certainty, could have an impact on the postponement of the 2024 elections, and was ordered to be implemented immediately without following proper procedures and therefore should be considered a non-executable decision. This decision will also affect third parties, which are all legal subjects who are not parties to the civil case. Legal remedies that can be taken by the parties are to continue to take legal remedies by filing a complaint to the Supreme Court Internal Supervisory Board and submitting a report to the Judicial Commission.

Keywords: *Decision No. 757/Pdt.G/2022/PN.Jkt.Pst, Execution of Court Decision, Non-Executable*

INTRODUCTION

The judiciary in Indonesia is independent and impartial, with its structure and functions regulated by Law No. 48/2009. The state delegates the power to adjudicate disputes to the judiciary, which is responsible for exercising that power through judges and related officials. The aim is to prevent acts of *eigenrichting* or vigilantism, which are inappropriate, unlawful and should be prevented.

In the opinion of Nandang Sunandar, the state has the authority to provide legal protection and resolution. Therefore, the state hands over judicial power to the judiciary and judges as its executors (Sunandar, 2021). When a case is filed, the court is obliged to hear and/or decide the dispute, and may not reject it, even if the rules on which it is based are absent or unclear. This is in accordance with the provisions of Article 10 Paragraph 1 of the Judicial Power Law.

Hadrian and Lukman Hakim argue that execution can only be carried out against judgements that have permanent legal force (*inkracht van gewijsde*) and cannot be appealed any further. In other words, certain court decisions cannot be executed (Hadrian & Hakim, 2020). Zainal Asikin agrees with this view, stating that decisions that cannot be executed are decisions that are not final and not yet binding, as the losing party can still appeal to a higher court. Therefore, only decisions that have permanent legal force can be executed (Asikin, 2018).

Yahya Harahap defines execution as a forced enforcement action by the court against a final and binding decision, with the help of legal apparatus (Harahap, 2023). One example of an execution problem is Decision No. 757/Pdt.G/2022/PN.Jkt.Pst which has been processed by the Central Jakarta District Court. The decision has the potential to fulfil the criteria as a non-executable decision, more specifically in point number 4, 'The Verdict is Unlikely to be Executed'. This is due to the fact that if the execution of the decision is still carried out, it will contradict the mandate of the 1945 Constitution of the Republic of Indonesia which regulates that elections must be held every 5 years, and may lead to chaos in the constitutional life of the Republic of Indonesia. According to this problem, this research aims to determine the execution of a non-executable court decision in case No. 757/PDT.G/2022/PN.JKT.PST.

LITERATURE REVIEW

Legal Certainty Theory

Radbruch argued that law enforcement should be based on the principle of legal certainty, which emphasises that laws should be clear, predictable and consistent. However, he also stated that legal certainty should be disregarded if it fundamentally conflicts with the principle of justice. In other words, an unjust law should not be enforced, even if it is clear, predictable and consistent (Hasbi & Anwar, 2016).

The theory of legal certainty in non-executable decisions highlights the necessity for laws to be clear, predictable, and stable, enabling individuals to make informed choices without the fear of arbitrary legal shifts. This concept includes several key principles: laws must be clearly defined to prevent ambiguous interpretations (Ivanov, 2024; Shcherbanyuk et al., 2023), individuals should be able to trust in the legal system and avoid retroactive applications of new laws (Janderová & Hubáľková, 2021; Shcherbanyuk et al., 2023), and legal certainty is an essential component of the rule of law, which ensures finality in judicial decisions (Evangeline Nikolaevna, 2023; Shcherbanyuk et al., 2023). Additionally, this principle encompasses core values like justice and equality in the interpretation and application of laws (Janderová & Hubáľková, 2021; Shcherbanyuk et al., 2023).

Legal Protection Theory

Legal protection is a means used by the state to provide assistance to people facing legal problems. It is a concrete step towards justice and truth, and plays an important role in law enforcement (Rahmawati & Sumaryanto, 2022). According to Sudikmo Mertokusumo, the function of legal protection is to create an orderly society and protect human interests. The law achieves this by dividing rights and obligations between individuals in society, dividing authority, and regulating the way legal problems are resolved (Annisa, 2023).

Legal protection theory regarding non-executable decisions rests on several assumptions, revealing challenges in legal enforcement and the protection of corporate and indigenous rights. The theory assumes corporations will adhere to legal standards, though research shows that market-driven self-regulation often takes precedence over legal enforcement (Harding & Cronin, 2022). It also posits state responsibility to protect individual and indigenous rights, as mandated by constitutional law (Salam, 2023). Additionally, there is an expectation of judicial compliance, but studies highlight frequent non-compliance, undermining legal protections (N. & A., 2022). These gaps indicate a need for stronger enforcement mechanisms.

Judicial Power

Judicial power plays a pivotal role in determining the outcomes of non-executable decisions, especially in scenarios where legislative frameworks are insufficient. The interaction between judicial authorities and non-judicial institutions often leads to jurisdictional conflicts, which can influence the decision-making processes of the courts. Non-judicial institutions, like the Constitutional Court, have the potential to impact judicial decisions by challenging or altering their outcomes, leading to a complex relationship that may result in dysfunctionality within the legal system (Jončić, 2018). The encroachment of these institutions on judicial powers can create conflicts in jurisdiction, undermining judicial authority and decision-making processes (Jončić, 2018).

Additionally, political dynamics have a significant influence on judicial outcomes. Politicians in power often receive leniency, which distorts the fair application of justice (Lambais & Sigstad, 2023). Judges may exercise self-restraint in their rulings, particularly in cases where government entities face high implementation costs, indicating that judicial power is sometimes wielded strategically in politically sensitive situations (Engst, 2021). While judicial authority is meant to serve as a check on non-executable decisions, its efficacy is frequently compromised by both political influences and the power of non-judicial institutions. This highlights the need for clearer legislative guidance to ensure more consistent and effective judicial actions.

Code of Ethics for Judges

The judicial profession is equipped with a system of ethics designed to maintain discipline and ensure that judges act in accordance with their professional values. This system of ethics serves as a guide in the professional as well as personal matters of judges. The ethical principles enable judges to remain fair and impartial in their decision-making, and to uphold the law and the justice system with integrity. Following these principles, judges contribute to the upholding of justice for all citizens.

Judges are tasked with the challenging responsibility of balancing their personal values with the established Code of Ethics when rendering non-executable decisions, a balance essential for maintaining judicial integrity and ensuring fair law enforcement. These ethical foundations are rooted in professional codes that emphasize core values such as freedom, justice, and honesty (Fahira & Fahmi, 2022; Suharsono et al., 2023). However, a judge's personal ideological background can subtly influence their decisions, making it imperative to have clear ethical principles that guide judicial interpretations and rulings (Tulián, 2016).

Despite the existence of these professional codes, many judges find it difficult to align their decisions with ethical standards, leading to negative public perceptions of the judiciary (Azizah et al., 2023; Fahira & Fahmi, 2022). The subjective nature of decision-making sometimes results in the prioritization of personal values over legal norms, potentially undermining the rule of law (Hahn, 2022). While judges endeavor to follow ethical guidelines, the tension between personal beliefs and professional duties underscores the need for continuous ethical training and reflection within the judiciary.

Judicial Decision

Court judgements are binding on the parties and can be enforced by the court if necessary. This may include issuing an order requiring the party to comply with the judgement or even holding the party in contempt of court (Sunandar, 2021). In Natsir Asnawi's perspective, the conclusion or consideration of the judge in a decision is an integral element that concludes the case (Asnawi, 2014). Meanwhile,

according to Sudikno Mertokusumo, a decision is a judge's statement pronounced in court to conclude a case that is being addressed (Hipan, 2017).

Judicial decisions in non-executable areas play a significant role in shaping case law and precedent, contributing to the evolution of legal norms and reflecting societal changes. While these decisions may not be directly enforceable, they often act as catalysts for legal innovation, helping to redefine established doctrines and adapt legal systems to contemporary challenges. Judicial activism, in particular, enables judges to interpret laws beyond traditional boundaries, thereby creating new legal doctrines that can influence the stability and evolution of case law (Singh, 2024).

In certain jurisdictions, such as Ukraine, judicial decisions from higher courts act as a form of precedent in private law, helping to create a unified legal framework. These rulings guide the adaptation of private law to emerging issues like technological advancements and societal shifts (Tsvigun, 2024). However, the selective publication of judicial decisions can hinder legal development by obscuring critical rulings, leading to inconsistencies, as seen in asylum cases within the Ninth Circuit (Reshota et al., 2022). On an international level, judicial decisions are vital for progressive legal development, often referencing past rulings to establish new legal standards (Singh, 2024). Nonetheless, this judicial role can sometimes conflict with non-judicial institutions, complicating the legal landscape and undermining the authority of judicial rulings (Jončić, 2018).

RESEARCH METHODOLOGY

This research is a normative juridical research using primary legal materials and secondary legal materials to obtain a comprehensive understanding. Normative juridical frameworks play a complex role in the execution of non-executable decisions, influencing legal certainty, procedural integrity, and enforcement. These frameworks often lack explicit regulations for certain cases, creating legal uncertainty. For example, in Indonesia, arbitration decisions on marriage agreements are non-executable due to restrictive legal interpretations (Jauhari et al., 2024). The absence of clear guidelines can lead to a legal vacuum, complicating the enforcement of administrative sanctions (Deviani et al., 2023).

Execution challenges are further compounded by procedural issues, such as the lack of good faith from losing parties and high execution costs, which existing laws fail to address adequately (Ritonga et al., 2022). Non-executable judgments undermine the rule of law and public trust by leading to suspended enforcement (Subagyono & Anand, 2018). Additionally, the rise of technology adds new challenges, requiring legal systems to evolve to prevent further enforcement gaps (Vanna, 2019). These limitations underscore the need for continuous legal reform to address execution issues effectively.

In addition, this research also applies statutory approach, conceptual approach, and case approach. The development of legal reasoning skills is shaped

by statutory, conceptual, and case-based approaches, each playing a distinct role in how legal professionals interpret and apply the law. The statutory approach focuses on interpreting legal texts, which can be challenging due to the nuances of language. Research has shown that breaking down statutory reasoning into specific language-related challenges can improve clarity and effectiveness (Holzenberger & Van Durme, 2021). By providing a structured framework for interpreting statutes, legal professionals can become more aware of their interpretive options, thereby enhancing their reasoning abilities (Araszkiewicz, 2023).

The conceptual approach highlights the cognitive structures that support legal reasoning. Studies suggest that as law students progress in their education, they develop more coherent frameworks for reasoning, emphasizing the importance of conceptual clarity in fostering strong legal reasoning skills (Haarala-Muhonen et al., 2022). Meanwhile, the case approach uses hybrid models, combining symbolic reasoning with machine learning to analyze legal cases. This method helps structure legal knowledge, justify outcomes, and ultimately improve reasoning capabilities (Mumford et al., 2022). While each approach offers valuable insights into developing legal reasoning, they also reveal the complexities of legal interpretation, underscoring the need for continued refinement in legal education and practice.

RESULT AND DISCUSSION

Causes of Judgement No. 757/Pdt.G/2022/Pn.Jkt.Pst to be Non-Executable

There is dualism in the filing of tort cases related to the object of disputes over the results of administrative verification of political party candidates for election, which is a complex issue. Both cases have civil and state administrative aspects. General courts are authorised to hear civil law disputes, while state administrative courts are authorised to hear public law disputes. However, there is overlap between these two jurisdictions which may lead to confusion as to which court should hear a case. In a case involving the results of administrative verification of a political party candidate for election, there are civil aspects relating to the plaintiff's right to be elected to office, and state administrative aspects relating to the government's authority to regulate elections. The general court can hear the case based on the plaintiff's right to be elected, while the administrative court can hear the case based on its authority to resolve electoral disputes.

The verdict in Case No. 5 states, 'Punishing the Defendant not to carry out the remaining stages of the 2024 General Election since this decision is pronounced and to carry out the General Election stages from the beginning for approximately 2 (two) years 4 (four) months 7 (seven) days.' From the contents of the ruling, it can be seen that Decision No. 757/Pdt.G/PN.Jkt.Pst does not have the characteristics of a civil judge's decision, because this ruling does not only apply to the parties to the dispute, but also provides a decision for the public interest (*erga omnes*). This shows that the decision has the characteristics of a judge's decision in state administrative court.

In addition to the erga omnes verdict, Decision No. 757/Pdt.G/PN.Jkt.Pst also includes verdict number 6, which states that the decision in case No. 757/Pdt.G/PN.Jkt.Pst can be executed immediately (uitvoerbaar bij voorraad). This decision was taken based on the judge's consideration of the follow-up to the issuance of the Settlement Decision from the Elections Supervisory Body No. 002/PS.REG/BAWASLU/X/200 dated 4 November 2022, as well as the urgent character of the decision.

Referring to Case No. 757/Pdt.G/PN.Jkt.Pst which in its ruling number 6 states the applicability of the decision immediately, it should be noted that the object of dispute in the case between the General Election Commission and PRIMA Party is not the authority of the District Court. Therefore, the implementation of the Decision cannot be implemented because it does not fulfil the requirements set out in the Supreme Court Regulation No. 3/2000 and Supreme Court Regulation No. 4/2001.

Decision No. 757/Pdt.G/PN.Jkt.Pst violates the absolute provisions of the court and exceeds the authority of the civil court. In addition, the execution of the judgement may invite conflict. Therefore, Decision No. 757/Pdt.G/PN.Jkt.Pst should be considered as 'non-executable.' Although this decision does not yet have permanent legal force, until now there has been no legal action taken by the General Elections Commission as the defendant, hence there is still a possibility that this decision will obtain permanent legal force in the future.

Legal Remedies on the Execution of Decision No. 757/Pdt.G/2022/Pn.Jkt.Pst

Considering the ruling, the legal consequences for the parties are as follows. The General Election Commission is required to pay material damages of IDR 500,000,000 (five hundred million rupiah) to the PRIMA Party. In addition, the General Election Commission must halt the 2024 General Election stage since the verdict was pronounced and carry out the General Election stage from the beginning for approximately two years four months and seven days. Furthermore, the General Election Commission is also required to pay the court costs of IDR 410,000 (four hundred ten thousand rupiah).

For the legal consequences arising for the PRIMA Party, the PRIMA Party is entitled to receive compensation from the General Election Commission in the amount of IDR 500,000,000 (five hundred million rupiah). In addition, PRIMA Party is entitled to complete the required documents as a political party participating in the 2024 General Election, which will then be administratively verified by the General Election Commission. If the Jakarta High Court approves the implementation of the verdict immediately in Decision No. 757/Pdt.G/2022/PN.Jkt.Ptt, then the parties, namely the PRIMA Party and the General Election Commission of the Republic of Indonesia, are obliged to fulfil what has been decided by the panel of judges in the dictum of the decision.

However, if the immediate decision in Decision No. 757/Pdt.G/2022/PN.Jkt.Ptt is approved by the Jakarta High Court, in addition to affecting the litigants, this decision will also affect third parties. Third parties here refer to all legal subjects who are not parties to a civil case.

The principle of *erga omnes* implies that a judge's decision does not only affect the litigants, but also parties beyond the case or third parties. In this case, third parties such as other parties participating in the election and the wider community also feel the legal consequences of the General Election Commission's actions, which is the non-implementation of the remaining stages of the 2024 General Election since the decision was pronounced, as well as the obligation to carry out the general election stage from the beginning for approximately two years, four months, and seven days.

Regarding Decision No. 757/Pdt.G/2022/PN.Jkt.Pst, the legal remedies that can be pursued are divided into 2 (two), including:

1. Continue to exercise legal remedies in accordance with the provisions of the applicable procedural law.
2. File a complaint to the Supreme Court Internal Supervisory Agency and file a report to the Judicial Commission against the judge who decided Decision No. 757/Pdt.G/2022/PN.Jkt.Pst.

In general, legal remedies in accordance with the applicable procedural law can be made through ordinary legal remedies, that is, legal remedies applied to decisions that are not yet legally binding. These legal remedies may include appeals.

The next step is to ensure compliance with the ethical rules set by the Judicial Commission. Court decisions can be pursued through legal channels to protect the parties from possible errors committed by lower courts, reflecting the principle of responsibility. Nonetheless, judges remain bound by the law, the state and society in carrying out their duties. In terms of judges' responsibilities, the provisions in the Judges' Disciplinary Code are relevant. Disciplinary action will be taken against judges suspected of misconduct.

CONCLUSION

The judge's decision in the case between PRIMA Party and the General Election Commission was flawed in several aspects. The verdict exceeds the judge's authority, does not provide legal certainty, has the potential to delay the 2024 elections, and is ordered to be implemented immediately regardless of the proper procedure. Therefore, this decision can be categorised as a non-executable decision.

The decision affects not only the parties, the Partai Rakyat Adil Makmur (PRIMA) and the General Election Commission of the Republic of Indonesia (KPU RI), but also third parties, all legal subjects who are not parties to the case. Legal remedies that can be taken by the parties include action in accordance with the

provisions of the applicable procedural law or filing a complaint to the Supreme Court's Internal Supervisory Board and submitting a report to the Judicial Commission regarding the judge who decided Decision No. 757/Pdt.G/2022/PN.Jkt.Pst.

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