

LEGAL REMEDIES IN CIVIL LAW FOR DOCUMENT FORGERY: A CASE STUDY IN INDONESIA AND COMPARATIVE ANALYSIS WITH ASEAN COUNTRIES

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ABSTRACT

The prevalence of deed forgery practices to benefit one party at the expense of another has been observed frequently. Consequently, the aggrieved party needs to pursue civil legal remedies to seek compensation. Indonesia adheres to the theory that legal remedies come in two forms: preventive legal measures and repressive legal measures. Legal provisions concerning deed forgery fall under preventive legal measures while filing a civil lawsuit with the Kepanjen District Court is considered a repressive legal measure. The objective of this research is to discuss civil legal remedies for deed forgery based on the verdict in Case Number 55/Pdt.G/2021/Pn.Kpn from the Keapanjen District Court, East Java, Indonesia, and compare them with other relevant laws from other ASEAN countries (i.e., Malaysia, Philippines, Brunei Darussalam, Singapore, Thailand, Vietnam, and Myanmar). This study is conducted as there is limited discussion on deed forgery from the perspective of civil law. The research method employed is the normative legal research method, involving an examination of the Civil Code and a case study of the mentioned verdicts. The research findings indicate that the legal remedies in these verdicts fulfill the elements of legal protection theory

Keywords: Legal Efforts; Deed Forgery; Indonesia; Civil Law

Introduction

Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, it emphasizes that Indonesia is a legal state. Therefore, everything must be based on the law. The application of the rule of law principle in Indonesia has its own identity and characteristics and does not directly refer to either the absoluteness of *rechtstaat* or the rule of law. Its execution involves safeguarding human rights, the delineation of powers, the practice of popular sovereignty, governance grounded in relevant laws and regulations, and the presence of administrative justice within the state (Haposan, 2016). The classification of law in Indonesia is highly diverse, with categorizations based on form, source, nature, application, time, manifestation, content, and defense methods. Classification based on content includes two types: public law and private law. Public law is further divided into four categories: criminal law, administrative law, constitutional law, and international law. On the other hand, private law is divided into two categories: civil law and commercial law. Civil law is a set of legal principles that determine and regulate civil rights and obligations. One commonly used legal source in civil law is the Civil Code of the Republic of Indonesia (Suparman, 2022).

In civil law, there is a branch known as procedural law or civil procedural law. Civil procedural law also referred to as formal civil law, encompasses all legal principles that determine and regulate the procedures for enforcing civil rights and obligations as outlined in substantive civil law (Retnowulan & Oeripkartawinata, 1997). Through civil procedural law, an individual who feels that their interests have been harmed by someone else can file a lawsuit against that person in court to restore their rights or interests. The authority of the court to resolve disputes among the parties is called contentious jurisdiction, and the lawsuits take the form of contentious lawsuits (Asikin & Sh, 2019). The term "contentious" comes from Latin and, in the context of dispute resolution, implies a spirited contest or controversy. That is why the resolution of cases involving disputes is referred to as contentious jurisdiction, indicating the court's authority to examine cases related to disputed matters between the contending parties (Rohini & Yulia Kusuma Wardani, 2022). In practice, contentious lawsuits refer to civil lawsuits. Lawsuits are distinguished based on the subject matter or substance of the case. The substance of lawsuits in court is divided into two types: lawsuits based on breach of contract and lawsuits based on wrongful acts. An example of a wrongful act is the forgery of an authentic deed (Hutagalung, 2022).

According to Article 1868 of the Civil Code, an authentic deed is a deed made by or in the presence of a public official authorized for that purpose, at the place where the deed is made, the form of which is determined by law. Article 165 of the *Herzien Inlandsch Reglement* states that an authentic deed is a deed made by or in the presence of an authorized official, constituting complete evidence between the parties, their heirs, and those who acquire rights from them, regarding the matters contained therein as mere notification. A document is deemed authentic if it satisfies three criteria, namely being created in compliance with legal provisions, being executed by or in the presence of a public official, and the public official must possess the necessary authorization at the location where the document is produced (Wahid et al., 2019).

Some regulations regarding forgery of documents in Indonesia are outlined in the Indonesian Penal Code. Notably, under Article 263, the creation or falsification of documents with the intent to use them as genuine is addressed. If the use of such forged documents causes harm, the perpetrator may face a maximum prison sentence of 6 years. Additionally, intentional use of false documents that results in losses carries the same penalty. Under Article 264 of the Indonesian Penal Code, forgery of specific documents is subject to a maximum prison sentence of 8 years. This includes authentic deeds, debt certificates from a state or its parts, documents related to associations, foundations, corporations, or companies, as well as dividend or interest coupons and commercial or credit documents. The intentional use of these forged documents, causing harm, is also punishable by the same maximum prison term.

This study takes a case example from the verdict number 55/Pdt.G/2021/Pn.Kpn of the Kepanjen District Court, East Java, Indonesia, where the deceased Mr. Juari passed away on April 16, 2012, in Malang, East Java. He was the owner of a land and building with an approximate area of 363 m², as stated in pole D number 420, parcel number 33, class D1 Kohir 1378, located in Malang Regency, East Java. In the year 2000, Mr. Juari donated a portion of the land situated to the north of a mosque, with an area of approximately 20 m². Later, the heirs of Mr. Juari, namely Sumiati, Sutrisno, Kumayani, and Suherlin, added a donation of land for the construction of a road to the mosque, with an area of about 129 m², with the knowledge of Mrs. Rubanah, who is the defendant. This means that the total land area allocated for the mosque is approximately 149 m². Based on Mr. Juari's will, the remaining land after the donation to the mosque was not allowed to be sold to anyone other than family members. Therefore, the heirs, Sumiati, Sutrisno, Sulis Kumayani, and Suherlin, sold the remaining land and building to Mrs. Rubanah, as she still had a family relationship with the plaintiffs. The plaintiffs and the defendant reached an agreement, resulting in a sales transaction between the parties for a portion of the land and building, approximately 214 m², at a price of Rp100,000,000, fully paid on January 13, 2015, by the defendant.

However, at the end of the year 2020, issues arose due to Mrs. Mudawati, another defendant, who halted and requested the dismantling of the mosque courtyard renovation, claiming that the plaintiffs had no right to the land. Because of this dispute, mediation was conducted by the local village and sub-district governments, but it was not resolved due to discrepancies in the village records. The land and building, measuring 363 m², were recorded under Mudawati's name instead. Upon further investigation, it was discovered that Mrs. Mudawati had forged a fake deed of sale with number 999/PPAT-Pks/III/2013 dated March 28, 2013, covering an area of approximately 363 m² under the name of Mrs. Rubanah. As a result, in this case, the plaintiffs lost their rights to possess the land and building.

This comparative legal study is conducted to facilitate the development of laws or regulations in a country. Comparative law is one of the fields used in legal studies, examining legal systems about one another, including their constitutive aspects, differences, and how their elements come together to form a system. Comparative law involves studying two countries with different legal systems. In the civil law system, laws are created first and amended according to the development of society. In this legal system, judicial decisions, known as *Eintracht* or jurisprudence, serve as a secondary source. In the common law system, reliance is placed on case law, which involves using previous court decisions as the basis for law. This research, set in Indonesia and drawing comparisons from regulations in Singapore in similar cases, addresses the general question of how civil legal remedies can be pursued in the event of document forgery in Indonesia.

Research Method

This research employs the normative legal research method, which involves an examination of legal regulations and other written rules. Additionally, it utilizes a case study approach by analyzing the verdict number 55/Pdt.G/2021/Pn.Kpn of the District Court of Kepanjen, East Java, Indonesia. The research employs a comparative approach by analyzing the verdict from Singapore, specifically Civil Appeal No. 7 of 2016, in similar cases. Additionally, the study delves into a comparison with selected ASEAN countries on document forgery. The legal framework used in this study is the Civil Code on Unlawful Acts. Data for this research is obtained through secondary sources, consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the Civil Code and the aforementioned court verdicts and regulations. Secondary legal materials used in this research comprise research journals or articles, and scholarly books related to the topic, while tertiary legal materials include legal dictionaries

Result and Discussion

Definition And Theory of Legal Protection

The theory of legal protection is utilized as a tool to identify issues within legal practices and formulate solutions or recommendations for improving the legal system. Legal protection encompasses the preservation of dignity and honor, along with the acknowledgment of the human rights held by legal entities, either through overarching authorities or a set of regulations and principles designed to safeguard various facets. Legal protection is the right of every citizen, safeguarded by the Constitution and regulated by the law. The theory of legal protection has two dimensions: the formal dimension and the substantive dimension. The formal dimension of the theory of legal protection concerns the legal process or mechanisms used to provide legal protection. This dimension emphasizes the importance of a fair, transparent, and non-discriminatory legal process for all parties involved. It highlights the significance of the independence and professionalism of judges, the clarity of legal rules, the accessibility of legal mechanisms, and the equality of legal rights between individuals and institutions. On the other hand, the substantive dimension of the theory of legal protection pertains to the legal substance that provides legal protection. This dimension emphasizes the importance of the content of laws or regulations that offer legal protection to individuals and society. In this substantive dimension, Hadjon emphasizes the need for human rights regulated by law and recognized by the state, the importance of timely and targeted laws, and the necessity of laws that consider the interests of the community at large (Asnawi, 2018).

In the analysis related to legal protection using Hadjon's theory of legal protection, it can be observed that the significance of legal protection is not only determined by the legal mechanisms employed but also by the content of laws or regulations providing legal

protection. Therefore, in improving the legal protection system, it is essential to consider both the formal and substantive dimensions of the theory of legal protection. This is crucial to ensure that the legal mechanisms used are not only fair and transparent but are also based on appropriate laws and regulations that consider the interests of the community at large (Permana, 2018).

There are three fundamental elements in the theory of legal protection. The first is the substantive or material element, which relates to the objects protected by the law, namely human rights and other legal interests. This element concerns the substance and interests protected by the law (Sinaga, 2020). The second is the procedural element, which encompasses everything related to the process or mechanism for protecting legal rights and interests. This element regulates the procedures or methods to be followed in filing lawsuits or petitions, along with the stages that must be undergone to achieve legal protection. The third is the sanction element, which relates to the sanctions or penalties imposed on legal offenders who commit actions that violate or threaten legal rights and interests. The sanctions may include criminal, administrative, or civil penalties. In the theory of legal protection, these three elements are interconnected and complement each other. If any of these elements are not executed properly, it will impact the effectiveness of the legal protection provided. Therefore, effective and proper legal protection must consider all these elements thoroughly and proportionally (Nurmandi et al., 2021).

The forms of legal action used to provide legal protection consist of two types: preventive legal protection and repressive legal protection. One form of preventive legal protection is the establishment and implementation of clear and firm laws or regulations that address provisions that must be complied with by society. The goal of preventive legal protection is to prevent disputes or issues from arising. On the other hand, repressive legal protection aims to resolve disputes that arise. The forms of repressive protection that legal subjects can pursue through dispute resolution efforts are divided into two types: non-litigation (out-of-court dispute resolution) and litigation (court). There are many types of non-litigation efforts (out-of-court dispute resolution), including arbitration, consultation, negotiation, mediation, conciliation, and expert assessment (Normandie et al., 2021).

In the context of legal protection, the relationship between the formal and substantive dimensions of the theory of legal protection with repressive and preventive legal protection complements each other in providing effective legal protection for society. Repressive and preventive legal protection can help realize the formal and substantive dimensions of the theory of legal protection. The formal and substantive dimensions of the theory of legal protection can aid in the creation of effective laws and legal regulations to prevent legal violations and provide a strong legal basis for preventive actions. In contrast, repressive actions are a form of legal action to enforce laws and

regulations that have been established, such as filing lawsuits in court to impose sanctions on legal offenders (Purnamasari et al., 2023).

In litigation, counterclaims from the defendant, usually referred to as a counterclaim or counter lawsuit, can certainly occur. A counterclaim is a lawsuit filed by the defendant as a counteraction (counter-suit) against the lawsuit filed by the plaintiff against them. The counterclaim must be submitted together with the defendant's response. If the counterclaim is not filed simultaneously with the response, the consequence is that the counterclaim is invalid and must be declared inadmissible. The purpose of a counterclaim is to achieve the principles of justice, simplicity, speed, and low costs. The counterclaimant is not charged any fees if they file a counterclaim. However, if the counterclaimant initiates a separate case, it needs to go through the process again from the beginning and may incur costs. If the counterclaimant wants to file a conventional lawsuit after the counterclaim, the original plaintiff can file a conventional lawsuit, where the original plaintiff becomes the plaintiff, and the original defendant becomes the defendant.

Civil Legal Remedies for Document Forgery Cases

Article 1457 of the Civil Code defines a sale and purchase as an agreement between the parties, where one party, the seller, is obligated to deliver a certain item, and the other party, the buyer, is obligated to pay the agreed-upon price. According to Article 37 paragraph (1) of Government Regulation Number 24 of 1997 of the Republic of Indonesia regarding Land Registration, the sale and purchase of land must be evidenced by an authentic deed prepared by a Land Deed Officer, and the deed must be signed by the parties involved before being registered at the local Land Office. This registration is necessary because even though the sale and purchase have taken place, it does not automatically transfer the land rights to the buyer, even if the buyer has fully paid for the land and physically possesses it. The transfer of land rights to the buyer can only occur if the seller has legally transferred them as part of fulfilling their legal obligations (Rachmani et al., 2020).

Before drafting the deed, the Land Deed Officer is obliged to verify the land certificate at the land office. Subsequently, the Land Deed Officer must read aloud the contents of the deed so that it can be understood by the parties involved. The Land Deed Officer is also obligated to provide information, including information about relevant laws and regulations, to the parties signing the deed. The verification of the certificate aims to ascertain the validity of the data on the certificate or land book held at the local Land Office. Through this verification, it can be determined whether the land is in dispute, subject to a lien, under any restrictions, falls under state land or has management rights, and so forth. The deed for the sale and purchase of land is a crucial document that serves to transfer ownership rights to the land and establish ownership. Additionally, witnesses are important in the transaction to hold them accountable if necessary.

Legal regulations such as laws, regulations, and court decisions serve as rules and guidelines for the public and legal institutions in conducting legal activities. Legal regulations play a crucial role in providing a strong legal foundation for preventive legal efforts. Legal regulations regarding authentic forgery can prevent the occurrence of falsification of authentic deeds that may harm individuals or groups by imposing legal sanctions on the perpetrators. Civil law regulations on the forgery of authentic deeds are not specifically addressed in the Civil Code. Forgery of authentic deeds is categorized as an unlawful act because an authentic deed is considered valid and complete evidence of the legal acts regulated therein. This act is deemed unlawful because it fulfills the elements of an unlawful act found in Article 1365 of the Civil Code, namely: there is an act, a violation of the law, an error, causing harm to the victim, and a causal relationship between the act and the harm.

Unlawful acts are caused by different elements of negligence and intention. In unlawful acts due to intentionality, the perpetrator has the intent to cause specific harm to the victim or is certain that their actions can lead to harm. In contrast, in cases of negligence, the perpetrator has no intent to cause harm and may even prevent harm from occurring (Hendrawan et al., 2015). Therefore, in unlawful acts with intentional elements, intent or mental attitude becomes the dominant factor, while in cases of negligence, emphasis is placed on outward behavior and actions performed without too much consideration for what is in the mind.

According to Article 1365 of the Civil Code, for an act to be considered wrongful, it must result in harm to the victim. The harm caused by wrongful acts is divided into two types: material and immaterial losses, which will be assessed monetarily (Chrysander & Gunadi, 2022). The plaintiffs, who should have rightfully possessed and owned the land based on inheritance rights, are now unable to enjoy the inheritance left by their parent, the late Mr. Juari. As a result, the plaintiffs have suffered losses. In decision number 55/Pdt.G/2021/Pn.Kpn, Mrs. Mudawati (the first defendant) created a sales and purchase deed dated March 28, 2013, which has been proven to be false because the deed states that it was made by Drs. Edy Susanto, MSc., as the Land Deed Officer in the local area. However, this Land Deed Officer was only appointed and designated by the Head of the National Land Agency of East Java Province as the Land Deed Officer on October 19, 2013, with number 258/KEP.35.II/2012. The creation of the sales and purchase deed in this case was intended to enable the first defendant to gain control over the land object. With the falsified deed of sale, the first defendant claimed ownership of the land and building with an area of 363 m². Thus, the first defendant successfully appeared to control the entire disputed object with the intention of claiming ownership, even though they have no right to it. In reality, part of the land should belong to the second defendant (Mrs. Rubanah), and the other part should belong to the plaintiff. It can be concluded

that the act of forging the authentic deed by the first defendant fulfills the elements of an unlawful act, according to the elements specified in Article 1365 of the Civil Code and can also be subject to Article 1366 of the Civil Code, which states that anyone causing harm to others, whether intentionally or negligently, can be sued in a civil court.

The establishment of laws or regulations governing unlawful acts is one form of preventive legal protection that aims to prevent legal violations, including the forgery of authentic deeds. However, if the regulated laws are still violated and issues or disputes arise, there is a need for repressive legal protection. In legal efforts, both formal and substantial dimensions are crucial to consider. Effective legal efforts must ensure compliance with formal and substantial requirements in legal protection. For example, when someone wants to file a lawsuit, the procedures followed must adhere to the formal requirements stipulated by the law, such as time limits and necessary documents. Meanwhile, legal efforts referring to the substantial dimension in the theory of legal protection involve ensuring that decisions are based on principles of justice and legal certainty.

The formal dimension of the legal protection theory in repressive legal efforts focuses on law enforcement against legal violations that occur, requiring clear and precise legal regulations. Legal efforts can be made by filing criminal legal actions against perpetrators of authentic deed forgery in accordance with applicable laws. However, criminal law only punishes the offender without providing compensation or restitution for the victim. On the other hand, the substantial dimension of the legal protection theory ensures justice for the victim or the injured party. In cases of forgery of authentic deeds, repressive legal efforts can provide justice to the injured party by filing civil legal actions against the forger to recover the losses incurred.

In the previously discussed case of document forgery, before filing the lawsuit, the plaintiffs and defendants attempted mediation. However, the mediator judge failed to reconcile the parties, leading to the dispute resolution being continued to the District Court of Kepanjen, East Java. The plaintiffs' submission of a civil lawsuit to the District Court of Kepanjen constitutes a form of repressive legal protection. By filing the lawsuit, the intention is to settle the dispute with the defendants by seeking compensation. The manifestation of repressive legal protection in this verdict is that the defendants are convicted for committing an unlawful act against the plaintiffs. The legal basis for filing a civil lawsuit for an unlawful act by the plaintiffs against the defendants to the District Court of Kepanjen is as follows (Wijaya et al., 2023):

1. The plaintiffs filed a lawsuit with the District Court of Kepanjen on March 10, 2021. The plaintiffs submitted the lawsuit because the defendants did not fulfill the elements in the conditions of sale and the validity requirements of an agreement in Article 1320 of the Civil Code, which includes the absence of agreement, untrue information, and a valid legal basis. Therefore, the actions of the first defendant meet

the elements in Article 1365, in conjunction with Article 1366 of the Civil Code. Unlawful acts in Article 1365 of the Civil Code regulate compensation imposed on the person who has committed an offense against the injured party. This compensation arises due to a mistake, not an agreement. Article 1366 of the Civil Code explains that everyone is responsible not only for losses resulting from actions but also for losses caused by negligence or carelessness.

2. Government Regulation replacing Article 2, Article 6 paragraph 1, and paragraph 3 of Law Number 51 of 1960 concerning the Prohibition of Land Use Without the Rightful or Authorized Permit.
3. Violation of the fundamental rights of the plaintiffs.

However, the defendants filed a counterclaim against the plaintiffs but were counter-sued by the plaintiffs in the conventional lawsuit. In this verdict, the substantive or material element has been fulfilled, namely the interests and fundamental rights of the plaintiffs protected by the law. The substantive element violated by the defendants serves as the basis for filing a lawsuit against them. In addition, the procedural element, which includes the procedure and manner of filing a lawsuit, has been fulfilled by the plaintiffs. The legal action taken by the plaintiffs is to file a civil lawsuit with the District Court based on the location of the immovable object in dispute, according to Article 118 HIR/Article 142 Rbg, namely the Kepanjen District Court because the disputed land is located in Kepanjen. Committing forgery of an authentic deed is an unlawful act, so the lawsuit filed with the Kepanjen District Court is a lawsuit for an unlawful act. This decision has met the sanction element, where the imposed sanction is in the form of civil sanctions. The case was won by the plaintiffs with the following verdict (Putri & Marlyna, 2021):

1. Granting the plaintiff's lawsuit in part;
2. Declaring that the statement regarding the grant of land to the plaintiff, covering approximately 149 m², made on January 5, 2015, is valid and legally binding;
3. Stating that the sale deed number 999/PPAT-Pks/III/2013 dated March 28, 2013, allegedly made by Drs. Edy Susanto, MSc., as the Land Deed Officer on behalf of Mudawati, covering an area of approximately 363 m², is not legally binding with all legal consequences.
4. Declaring that the first defendant (Mrs. Rubahan) in the conventional lawsuit has committed an unlawful act by causing losses to the conventional plaintiffs.
5. Sentencing the defendants and/or anyone who controls the disputed object to be handed over to the conventional plaintiffs voluntarily, immediately, and all at once, if necessary, with the assistance of the police.
6. Sentencing the first defendant in the conventional lawsuit/plaintiff in the counterclaim and the second defendant in the conventional lawsuit jointly and severally to pay the court costs amounting to Rp2,114,000.

In Singapore law, if someone has committed forgery, such as falsifying a document like a deed, apart from facing criminal charges under Section 468 of the Penal Code 1871, which carries a maximum prison sentence of 10 years and a fine, the aggrieved party can also file a civil lawsuit for forgery to seek compensation. However, similar to prosecutors who bear the burden of proving that a crime has been committed, the person alleging forgery in a civil case also has the burden of proving that the act of forgery has occurred. Providing evidence is essential when suing someone for forgery, which may include handwriting samples or documents obtained through expert testimony and unaltered copies of the original documents. In this context, crucial pieces of evidence need to be presented to substantiate the accusation of forgery.

In the case number Civil Appeal No. 7 of 2016 between Sudha Natrajan v the Bank of East Asia Ltd, the appellant Sudha Natrajan sued The Bank of East Asia for forging her signature in the Deed of Assignment of Proceeds. In the appeal, the petitioner stated that she never signed the deed, but The Bank of East Asia Ltd had sued Sudha Natrajan in the SGHC 328 of 2015 judgment. The petitioner presented a handwriting expert, also known as a graphologist, Mr. Yap Bei Sing, to prove that the signature was fake and not signed by the petitioner. During the signing of the deed, only Sudha had a witness, while her spouse, Rajan Natrajan, had no witness during the signing of the deed, raising the possibility of signature forgery. Furthermore, the Bank failed to prove that the signature truly belonged to Sudha because, according to Mr. Yap, the signature did not match Sudha's typical writing style (see Figure 1). It is proven that the respondent is guilty of forging the petitioner's signature for the respondent's purposes, namely signing the Deed of Assignment of Proceeds to make the petitioner pay a certain amount demanded by the respondent, as stated in the deed. Therefore, the respondent must pay the appeal costs to The Court of Appeal of Singapore.

In Malaysia, the offence falls under Section 471 of the Penal Code, punishable under Section 465 of the same act, which carries a jail term of up to two years or a fine or both, upon conviction. In July 2023, a chairperson and a treasurer of a non-governmental organization were fined RM3,500 each by the Sessions Court after pleading guilty to two charges of submitting forged documents involving the Malaysian Indian Transformation Unit (Mitra) funds in the year 2020. They were accused of forging payment vouchers worth RM1,600 in total towards two separate women on October 11, 2020, which were submitted to Mitra under the description of 'Volunteer Services for The Women Empowerment Program' under the Persatuan Wanita Berjaya Sejahtera Malaysia.

In the Philippines, forgery is addressed under the Revised Penal Code, Article 169. The forgery can be committed by various means, such as giving the appearance of a true genuine document to a treasury or bank note or any instrument, payable to bearer or order, or by erasing, substituting, counterfeiting, or altering figures, letters, words, or

signs contained therein. Additionally, under Section Four of the Revised Penal Code, Article 170 covers the falsification of legislative documents, imposing penalties for altering bills, resolutions, or ordinances enacted or approved by legislative bodies. Under Article 171, falsification by a public officer, employee, or notary taking advantage of their official position is also addressed. The penalty is prison mayor and a fine not exceeding P5,000 pesos for falsifying a document through specific acts outlined in the law.

Brunei Darussalam's legal framework, specifically outlined in Chapter XVIII, addresses offences related to documents, false documents, currency notes, and bank notes. Section 463 defines forgery as the creation of a false document with various intents, leading to a punishment of imprisonment for up to 5 years and a fine under Section 465. In addition, Vietnam's Penal Code, Article 341, amended in 2017, focuses on the crime of using fake documents from agencies and organizations. Penalties range from fines to community sentences or imprisonment, depending on circumstances such as involvement in organized groups, multiple offenses, the use of multiple fabricated seals or documents, and the commission of less serious or serious crimes. Additionally, Myanmar's Chapter XVIII, addressing offences related to documents and trade or property marks, states in Section 463 that whoever makes a false document with specific intents commits forgery. Section 465 outlines the punishment for forgery, including imprisonment for up to two years, a fine, or both. Additionally, Section 466 addresses specific types of forgery with varying punishments, including imprisonment of up to seven years and fines.

In Thailand, Chapter 3 addresses offences related to documents. Section 264 defines forgery of a document as the act of fabricating, altering, or adding to a document in a manner likely to cause injury to others. This includes putting a false seal or signature to deceive others into believing it is genuine. The punishment for forgery is imprisonment not exceeding three years, a fine not exceeding six thousand Baht, or both. Additionally, filling in the contents on a sheet of paper or material bearing someone else's signature without consent for activities causing potential harm results in the same punishment. Section 265 specifies that whoever forges a document of right or an official document faces imprisonment ranging from six months to five years and a fine ranging from one thousand to ten thousand Baht.

In the Indonesian case, civil sanctions were imposed on the defendants. Penalties in Malaysia include imprisonment or fines, Singapore imposes both criminal charges and potential civil compensation, Brunei Darussalam entails imprisonment and fines, Vietnam's penalties vary, Myanmar's include imprisonment and fines, and Thailand's range based on the nature of forgery. The Indonesian case involves both substantive and procedural legal elements, whereas other countries have comparable legal elements, such as definitions, evidence requirements, and specific acts constituting forgery. In

Indonesia, the burden of proof lies with plaintiffs, a similarity shared with other countries, like Singapore

Conclusion

The conclusion drawn from the Indonesian case underscores the comprehensive fulfillment of both substantive and procedural elements in the legal protection theory. The government's preventive legal efforts are evident through regulations aimed at deterring forgery of authentic deeds, aligning with the substantive element of legal protection. These regulations, rooted in the Civil Code, not only serve as a preventive measure but also provide a foundation for initiating legal action, demonstrating a procedural aspect. Moreover, the plaintiffs' pursuit of an amicable settlement aligns with the procedural element, reflecting a repressive legal effort. However, the defendants' disregard for this attempt compelled the plaintiffs to resort to litigation, specifically an unlawful act lawsuit filed with the Kepanjen District Court. This legal action is grounded in Article 1365 and Article 1366 of the Civil Code, asserting that the defendants forged authentic deeds and unlawfully occupied, controlled, resided, and exploited the disputed land, infringing upon the inheritance rights of the rightful heirs—the plaintiffs. The verdict, captured in Decision Number 55/Pdt.G/2021/Pn.Kpn, attests to the fulfillment of punitive elements within the legal protection theory. The panel of judges, acknowledging the defendants' guilt, imposed penalties, requiring them to cover court costs and surrender the disputed object to the rightful owners. This decisive legal outcome reinforces the deterrent aspect of legal protection and serves as a tangible manifestation of justice within the Indonesian legal system. Comparatively, these legal mechanisms and outcomes align with the broader context of legal protection theories observed in other ASEAN countries, showcasing shared principles in preventing forgery and ensuring just resolutions through legal avenues.

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