

## LEGAL PROTECTION FOR VICTIMS OF CRIMINAL ACTS ONLINE ARISAN FRAUD (Study of Decision Number 897/Pid.B/2020/PN Btm)

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### ABSTRACT

*The cases of fraud that have occurred recently are getting more and more unsettled. One form of fraud is the criminal act of social gathering fraud. The research carried out is normative juridical law research with an empirical juridical approach using primary data and supported by secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials. Based on the results of the study, it is understood that the regulation of legal protection for victims of online social gathering is Article 28 paragraph (1) Jo. Article 45A paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions and Article 378 of the Criminal Code which regulates the crime of fraud.*

### INTRODUCTION

A crime that occurs quite frequently in society is fraud. Fraud is one form of action that is referred to as a crime, namely an act that is contrary to legal interests. The causes and consequences of this act have become a concern for various parties, by conducting research based on scientific methods in order to obtain certainty in determining the portion and classification of this crime.

The crime of fraud is a class of criminal acts against a person's wealth that is carried out by lying (deceiving) others by abusing the trust given. Fraud is categorized as a criminal act that can benefit oneself by breaking the law and is considered an act that always harms others, therefore the perpetrator of the crime of fraud can be held responsible for his actions with

criminal sanctions under Article 378 of the Criminal Code, where a person is said to commit fraud by moving another person with the intention of handing over a sum of money for a certain purpose, benefiting himself unlawfully, and the money is not used for its actual purpose but for his own benefit.

Fraud is a general offense, namely any crime that only under certain circumstances constitutes a complaint offense. Generally, the crime is not a complaint offense but rather an ordinary crime. This complaint is not made to prosecute the incident but because it is a relative complaint offense. Crimes that fall into this category of complaint crimes include theft within the family (*familie-diefstal*), Article 367 and more or less similar wealth offenses (*vermogensdelicten*), such as extortion and threats (Article 370 of the Criminal Code), embezzlement (Article 376), fraud (Article 394 of the Criminal Code).

One of the crimes that is growing in society is fraud. According to Article 378 of the Criminal Code: Anyone who with the intention of benefiting himself or another person against their rights, either by using a false name, either by action and trickery or by fabricating false statements, persuades someone to give something, make a debt or write off a receivable, is threatened with fraud with ~~law~~ imprisonment for a maximum of four years.

Fraud is often committed in various ways, one of which is fraud in the form of online social gatherings. Arisan is a gathering of money or items of equal value among several people, then a raffle is held among them. The raffle is held periodically until all members have won. This activity is intended for gatherings that have a "forced" element, as members are required to pay and attend each raffle.

Online arisan (*arisan*) is conducted without meeting the arisan manager (owner) in person. Payments can be made through an Automated

Teller Machine (ATM) or mobile banking. The drawing process is automated through these electronic means. Therefore, trust is essential for these transactions. Online arisan is inherently more susceptible to fraud and embezzlement because it's conducted between individuals who don't meet face-to-face.

## RESEARCH METHODS

A research method is "an effort to discover, develop, and test the truth of knowledge, conducted using scientific methods." A research method describes the methods or methods a researcher uses to obtain data or information. "A research method serves as a guideline and foundation for conducting research operations and writing a scientific paper."

This research is descriptive analysis, namely "research that describes, examines, explains and analyzes laws and regulations related to the objectives of this research". The purpose of descriptive research is "to accurately describe the characteristics of individuals, conditions, symptoms or certain groups, or to determine the frequency or distribution of a symptom or the frequency of certain relationships between symptoms and other symptoms in society". The main purpose of analyzing legal materials is "to know the meaning contained in the terms used in the statutory regulations conceptually, as well as to know their application in practice".

The research used is normative juridical, namely "research that places norms as the object of research, both legal norms in legislation, legal norms sourced from a law." It is also called doctrinal legal research, namely "legal research that uses secondary data. Normative legal research is known as qualitative legal research."

## RESEARCH RESULTS AND DISCUSSION

Today's economic globalization is developing increasingly rapidly, of course in the business world, in developments in the era of technology and science This is because everything is designed to be as easy as possible,

without time or place constraints. This development, of course, is not limited to trade but can also occur in other activities. It is designed to make it easier for people to access things, such as transactions.

As time goes by, currently developments occur in the financial regulatory system in the implementation of arisan, arisan is not something new to know and implement, arisan itself is an activity of collecting funds carried out by several people, then drawn based on sequential numbers, can also be drawn according to the sequence of numbers that have been determined. Arisan develops along with existing technology, namely online-based arisan, of course all parties involved in it want convenience in the procedures of the financial system in its implementation. Activities This social gathering can be said to be a social activity because it is a medium for giving to each other, helping each other, and can also be used as a means of fostering friendship in the form of harmony among members.

This development certainly brings both positive and negative effects, because arisan members usually communicate and meet in person, but this time the arisan process can be done through the help of social media and can also be called online arisan. Online arisan members themselves are expected to fulfill the agreed arisan dues by making payments, including through ATMs or E-commerce. E-commerce itself means trading activities through the internet. This process can certainly have several impacts that are expected to occur on members and their environment. One problem that occurs in the implementation of online arisan is fraud due to the lack of an agreement established by the online arisan manager to be able to account for the obligations of the online arisan members.

The agreement referred to in this online social gathering is an agreement This is considered to have a strong level of evidence, as online arisan still uses agreements based on trust between members, or what can

be called verbal agreements. These verbal agreements remain binding on both parties and are considered valid by law, as they must be based on mutual consent and executed in good faith. These agreements are typically kept simple, unlike written agreements, which are generally created to have stronger legal force.

As the arisan progresses, the online arisan parties who should carry out their obligations to pay the agreed contributions because they have already received results in the arisan then no longer carry out their obligations, which at this time the parties agree to carry out the online arisan only with verbal agreements, the members trust each other without any guarantee, then the arisan manager must continue to maintain the smooth running of the arisan for the welfare of its members. Online arisan managers are also expected to be able to carry out accountability for arisan members who have large contributions, and have guarantees that can be used so that later they can be used as a basis for consideration if the arisan manager or members do not fulfill their obligations.

The rise in cases of loss or fraud in the world of online arisan (social savings and credit unions), the term "online arisan" itself is no longer unfamiliar, because in addition to its implementation is easy and can be followed by everyone from students to housewives, many have done it. If a case of default occurs in the implementation of the arisan, the accountability that must be obtained by the party that suffered a loss in the online arisan activity must be fulfilled by the online arisan manager who is trusted to carry out their rights and obligations properly.

The liability for members of an arisan (social savings and savings) should be borne by the party causing the loss due to error or negligence. Protection must still be provided by the manager, or what can also be called consumer protection, as in this case, consumers are online arisan members who are members of one arisan group, and within it there is a party who is

in default. To ensure the smooth running of the arisan, parties using the arisan funds must be able to repay within the specified timeframe, as they must also include several agreements regarding repayment procedures. Therefore, an arisan manager who can accept full responsibility for any losses incurred in the arisan is crucial.

The legal protection that is expected to be provided to members who experience losses is protection. provided by law regarding compensation. However, to obtain the full compensation, the management found obstacles in it, namely the online arisan manager could not provide proof because there was no guarantee or written agreement in it. The arisan manager is concerned that if many arisan members do not make payments on time or within the tolerated time, the manager will certainly bear more losses, and in this case other members will also be harmed because the funds used are the funds of the arisan members. Losses caused by one of the online arisan members will be very detrimental to the smooth implementation of the online arisan. This must be accountable by the arisan manager or the party who feels aggrieved in order to still receive compensation.

Nowadays, arisan (social gathering) is often conducted online, differing from traditional arisan. Online arisan utilizes online technology, such as smartphones or computers, and the internet. This emergence of online arisan stems from advances in communication technology, including the rise of social media platforms like Facebook, Instagram, WhatsApp, and others. Online arisan eliminates the need for in-person meetings between managers and members. All transactions are conducted online. This lack of face-to-face interaction between managers and participants creates opportunities for criminal activity. The most common crime associated with online arisan is fraud.

The forms of online arisan fraud that frequently occur include:

1. A descending arisan (arisan) system involves members depositing varying amounts into the manager's account, depending on their arisan number. The descending arisan system works by allowing those in the first row to receive money quickly, but in larger amounts, than those below them. The first row is typically taken by members who need money quickly but can expect a small profit with a large deposit. Meanwhile, members hoping for a larger profit take the last row with a lower deposit.
2. A duet arisan is an arisan formed into two groups: one group acting as borrowers and the other as donors or investors. To initiate this arisan, the manager forms a duet group on WhatsApp consisting of borrowers and investors. After investors deposit funds with the manager, the manager disburses the funds to the borrowers in an agreed-upon amount. The borrowers are required to repay the funds within the agreed-upon period, either in the form of profit or principal plus profit.
3. A flat arisan involves members paying a single, equal amount to the manager. Payments are made by bank transfer. Funds are then disbursed within a specified timeframe according to the member's sequential number.
4. The shooting lottery is also known as the auction lottery. The winner is determined by the highest deposit bid. Participants are typically those in need of money.

The various online arisan mechanisms share a common characteristic: they always promise large profits and a fast process. This easily leads to people being easily convinced and attracted, leading to widespread online arisan fraud. Furthermore, the basis of online arisan agreements is based solely on mutual trust between members and the manager or owner.

There are several characteristics to recognize online arisan fraud, namely:

1. Typically, perpetrators offer their services by promising attractive rewards and lavish promotions, such as substantial profits or bonuses. The goal is to convince potential members that joining the arisan will yield significant profits.
2. In a number of cases, these online arisan (social savings and credit) lack a formal legal entity, even though they manage hundreds of millions or even billions of rupiah. Formal legal entities include public companies (PT), limited partnerships (CV), firms, foundations, and so on. Consequently, when the scam is uncovered, victims find it difficult to track down the perpetrators.
3. Providing easy working information for prospective members who want to join the online arisan, for example, just filling in your name and telephone number to the arisan admin.
4. After that, prospective members will be ordered to transfer a predetermined amount of money to the perpetrator's account.
5. In this way, people, especially women or mothers, will be easily tempted by this offer.

. Those who commit online arisan fraud must have a form of intent or purpose. This is because in online arisan fraud, the person first creates an account and then considers how to gain a large number of members. This demonstrates that the online arisan fraud was premeditated and well-planned.

Online arisan fraud committed by individuals using social media is a type of crime that is currently on the rise. The widespread use of the internet opens up opportunities for irresponsible parties to engage in acts that can harm others. Illegal acts related to online arisan fraud on social

media would not occur without the presence of factors that contribute to such crimes.

The primary factor contributing to online arisan fraud is society itself, a society easily lured by offers of large profits. This makes it easy for online arisan fraudsters to exploit this, and the scammers are becoming increasingly prolific with their tactics. This is evidenced by the increase in reports of online arisan fraud cases over the past two years.

There are several factors that cause online arisan fraud, as follows:

1. Community Factors Themselves

Currently, public legal awareness regarding online arisan fraud is still lacking. People, lured by offers of large and multiple profits, are easily fooled and easily taken advantage of by criminals. They are unaware that they have become victims of online arisan fraud. Therefore, the main factor causing online arisan fraud is public ignorance of the tricks used by perpetrators to facilitate their fraud. People often do things to gain quick profits without considering the risks. Perpetrators offer large profits, so people are unaware that they have the potential to become victims of online arisan fraud.

2. Economic Factors

Most perpetrators of online arisan fraud are unemployed. Due to unemployment and difficulty meeting basic needs, perpetrators are driven to seek shortcuts to earn income. Instead of seeking employment, they are tempted to commit crimes in order to make money quickly. This is confirmed by interviews, which state that the increase in online arisan fraud is due to the high unemployment rate in society, as evidenced by the large number of perpetrators with unemployment backgrounds and perpetrators from lower economic backgrounds. One crime that tends to be easy to commit is fraud under the guise of online arisan. This is

also due to the increasing number of social media users and the ease of access and difficulty of tracking online arisan fraud.

### 3. Environmental Factors

These environmental factors significantly influence perpetrators. The importance of the surrounding environment in shaping a good personality is also a determining factor in online arisan fraud. Initially unemployed perpetrators eventually begin to learn from those who have committed online arisan fraud. A person who commits a crime tends to be influenced by their social environment, where the perpetrator has learned or learned from their environment that criminal behavior or such acts can quickly benefit themselves rather than law-abiding behavior. Furthermore, environmental factors that support online arisan fraud include the desire for a hedonistic lifestyle, where insufficient income drives people to commit online arisan fraud.

### 4. Social and Cultural Factors

#### a. Information Technology Advances

Technological advancements have progressed rapidly. Technology and information play a vital role in people's lives, making all daily activities easier through the use of the internet and online media. This activity has given criminals the idea and opportunity to commit online arisan (social savings) fraud.

#### b. Human Role

The role of humans is crucial as the person controlling the transaction. This is because human resources act as the controller or controller of online arisan transactions. One of the most important parties is the arisan owner. The arisan owner is the party selected by the arisan participants and agreed upon by all members. Their role is to manage the arisan's implementation within an agreement. In other words, the arisan owner is the administrator of the arisan. The

other party is the arisan participants. These participants are all members who have agreed and are bound by the agreement to hold the online arisan.

c. The Emergence of a New Community Phenomenon.

With technology as an electronic tool for achieving goals, including the internet, a medium that can be used to communicate with others, both near and far. Thus, sociologically, a new community is formed in cyberspace, which can bring people together.

5. Intellectual Factors

Intellectual capacity refers to a person's ability to think and act in order to perform activities. This intellectual factor stems from the skills a person possesses as a former cybercrime perpetrator, who then teaches or transmits these skills to others around them or in similar circumstances.

6. Safety Factor

The lack of internet security allows anyone to freely express themselves online without restrictions, thus fueling the growth of crime. Criminals who use the internet naturally feel safe when committing fraud, as the medium is accessible to anyone and anywhere.

To combat the occurrence of online arisan fraud, the police have made various prevention efforts, namely as follows:

1. Law enforcement through preventive efforts

The first step in enforcing the law against perpetrators of online arisan fraud is preventive action. The police take systematic, planned, and targeted preventive measures to address the potential for online arisan fraud. Preventive measures include:

a. Appealing to the public through social media

The initial step as an effort to prevent online arisan fraud is to convey warnings, appeals and prohibitions against committing online arisan

fraud accompanied by threats of sanctions conveyed on various social media.

b. Carrying out outreach to the community

Conducting outreach and public education on preventing online arisan fraud. The police are actively implementing fraud prevention efforts through outreach. This includes providing information to those with limited legal awareness and to the general public who are unaware of the methods used by online arisan fraudsters.

It is hoped that these efforts will be effective, raising public awareness and increasing vigilance, as everyone is a potential target for crime. Therefore, the police need to educate the public about the importance of greater caution in their actions, as crime rates are on the rise.

2. Law enforcement through repressive measures

Repressive measures are conceptual crime prevention measures taken after a crime has occurred. Repressive measures are intended to punish perpetrators for their actions and reform them so they realize that their actions violate the law and harm society. They will therefore not repeat them, and others will also be discouraged, given the severe sanctions they face.

Responsibility for online arisan fraud is regulated in Article 28 paragraph (1) Jo. Article 45A paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions and Article 378 of the Criminal Code which regulates the crime of fraud.

## CONCLUSION

The legal protection provisions for victims of online arisan crimes are Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of

2008 concerning Electronic Information and Transactions and Article 378 of the Criminal Code which regulates the crime of fraud.

The criminal responsibility of perpetrators of online arisan crimes is the defendant was sentenced to imprisonment for 3 (three) months and 15 (fifteen) for the defendant's actions has fulfilled the elements of Article 378 of the Criminal Code and the defendant has no justification or excuse for the actions he committed.

Analysis of the judge's legal considerations in decision Number 897/Pid.B/2020/PN Btmis tThe defendant did not give the online arisan money to the victim, Mulyani, so as a result of the defendant's actions, Mulyani suffered a loss of approximately Rp. 6,776,000.00 (six million seven hundred and six thousand rupiah). The defendant's actions disturbed the community and caused harm to the victim, Mulyani.

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