Legal Strength of Evidence Photocopy of Letter or Written Evidence in Civil Matter

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Abstract. Evidence in the civil court process is the truth that the judge seeks and realizes. There are in the common court process is reality that the appointed authority looks for and understands. There are times when the gatherings submit evidence of a letter as a copy yet never again have the first letter, so it can't be coordinated with the first letter at the preliminary times when the parties submit proof of a letter in the form of a photocopy but no longer have the original letter, so it cannot be matched with the original letter at the trial. The sort of exploration is library research with a regularizing lawful examination approach. The essential examination information source is optional information to gather information from writing and report studies. The information examination technique was done logically and investigated by subjective standardizing strategies. The consequences of the review presumed that a copy of a letter or composed proof in a common case could be acknowledged whether the copy of the letter has been coordinated with the first or by an authority proclaimed to be under the original and has perfect and binding evidentiary power, and the legal basis for the judge's thought in inspecting proof. Copy of the letter on Decision Number 23/Pdt.G/2018/PN Bbs, to be specific the Jurisprudence of the Supreme Court in Supreme Court Decision No. 3609 K/Pdt/1985 that a copy of a letter/report which can never be demonstrated to be unique can't be considered as proof of a letter as indicated by the Civil Procedure Code.

Keywords: Power of Law; Written Evidence; Civil

1 Introduction

In a civil case, evidence has a vital role in settling cases in court. The law of proof in civil cases is an essential part of civil procedural law. Civil procedural law, in general, is a legal regulation that regulates the process of settling civil cases through judges (in court) from the time a lawsuit is filed, the lawsuit is examined, and the dispute is decided until the judge's decision is implemented Proof in the common court process is reality that the judge seeks and realizes.[1]

Proof of civil cases is significant so that the judge's assessment of the evidence is closely related to the provisions of evidence based on the evidence submitted. From the judge's heart and soul, conviction isn't needed. The disputing gatherings can submit proof in view of untruths and misrepresentation. In any case, hypothetically, the appointed authority should acknowledge

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such realities to secure or shield the singular privileges or social equality of the gatherings concerned.[2]

According to the Civil Code, Article 1866 of the Civil Code states that the evidence consists of written evidence, evidence with witnesses, suspicions, confessions, and oaths. The evidence in the evidentiary process states that the sequential mention of evidence is not just a writing procedure but shows that evidence in civil procedural law is prioritized in the first order, namely written evidence or letter statements. Although evidence in civil procedural law is prioritized on written evidence, judges still have to be careful in assessing other evidence because, in principle, all evidence is essential and valuable proof.[3]

The position of the written evidence, by M. Yahya Harahap, explained that, in Article 1866 of the Civil Code, the first order of evidence is written evidence (schrifftelijke bewijs, written evidence). There is also a mention of documentary evidence. In civil procedural law, written evidence is an essential and most crucial piece of evidence compared to others. Especially at this time, all legal actions are recorded or written in various forms of letters, which are deliberately made for this purpose.[4]

Letters are anything that contains reading signs intended to pour out a person's thoughts and feelings intended for himself and or others that can be used as evidence. Letters consist of deed and non-deed letters. The deed consists of an authentic deed and a private deed. An authentic deed is a letter made by or before a public official who is authorized to provide sufficient evidence for both parties and their heirs and all those who have rights from it (Article 165 HIR). In contrast, other deeds, which are not authentic, are called a deed under the hand.

Of course, the documentary evidence used by the Plaintiff in his claim has juridical power. The judge conducts examinations at the trial with great care and thoroughness so that the judge only assesses the strength of the documentary evidence. The strength of proof of the letter's evidence is in the original, for every copy or photocopy brought forward to the trial must be matched with the original.

Photocopy, when compared to a copy, there is almost no difference. However, the assessment and award given by the law of proof to a copy are much higher than a photocopy. This is accommodated by Article 1889 of the Civil Code and Article 302 Rbg. On the other hand, there are no statutory provisions that accommodate the assessment of photocopies. However, in court, the acknowledgment of the validity of the photocopy being identical to the original letter is to match the photocopy evidence with the original letter. Sudikno Mertokusumo, who concluded from the Supreme Court Decision No. 701 K/Sip/1974, also stated that photocopies could be accepted as evidence if the photocopies are accompanied by information or legal from which it turns out that the photocopies are under the original.[5]

People are now starting to recognize legal actions that have legal consequences. In carrying out these legal acts, the community usually uses written evidence as a sign of the parties' binding. The written evidence can be made through an authorized official, a Notary, or a private deed. Written evidence made by the parties shows that there is public awareness of the applicable law. The direction of people's thinking that is increasingly advanced in written evidence will facilitate dispute resolution if, in the agreed engagement, things happen that are not desirable or default.

However, . there are times when the gatherings who submit narrative proof don't have or control the first letter any longer. A duplicate or copy of the letter can't be coordinated with the first letter at the preliminary. This turns into whether or not copies of letters can be acknowledged in common cases, and if photocopies can be accepted, how strong is the proof, as happened in case number 23/Pdt.G/2018/PN Bbs, between Karisah as the Plaintiff and Tasli as the Defendant I and Makripin as Defendants II. Plaintiff has filed a lawsuit that Defendant I

and Defendant II are a husband and wife, wherein Plaintiff has lent a sum of money to Defendant I in stages with a total of Rp. 191.000.000,-.

The photocopy of the proof of the letter is sufficiently stamped. It has been matched according to the original, except for evidence P1, P-2, P-3, and P-5 in photocopies without showing the originals. There is a problem regarding whether photocopies of letters can be accepted in civil cases and how strong the evidence is, both from scholars' opinions and the Supreme Court's opinion; this issue will be discussed further.

2 Research Methods

This type of research is included in library research, namely research that uses secondary data, namely research that uses secondary data and the data source can be obtained through document searches. According to the problems discussed, this research is library research because the primary data source comes from documents, such as laws, decisions, and others.

The research approach used belief is not required. The litigating parties can submit evidence based on lies and falsehood. Still, theoretically, the judge must accept such facts to protect or defend the individual rights or civil rights of the parties concerned. This exploration was led utilizing a standardizing juridical methodology since library materials are utilized as the fundamental material, comprising of essential legitimate materials comprising of fundamental standards or rules, initial arrangements or guidelines, and legal guidelines. Furthermore, optional legitimate materials are likewise utilized as auxiliary information, including essential, optional, and tertiary lawful materials.[6]

The methodology technique utilized in this exploration is regularizing juridical, a logical report that starts with an investigation of the regulations and guidelines overseeing the issue. Juridical lawful exploration implies that examination alludes to existing writing studies or the auxiliary information utilized. While standardizing implies lawful examination that expects to get regularizing information about the connection between one guideline and one more and its application by and by.[7]

Data collection methods in this research are literature study and document study. Literature study, obtained from library research, aims to obtain concepts or theories and information and conceptual thoughts in the form of legislation and other scientific works. At the same time, the document is by searching for documents at the Brebes District Court, which is in the form of a court decision.

3 Results and Discussion

3.1 Legal Strength of Evidence Photocopy of Letters in Civil Cases

Of course, the documentary evidence used by the Plaintiff in his claim has juridical power. The strength of proof of the letter's evidence is in the original, for every copy or photocopy brought forward to the trial must be matched with the original. There are no statutory provisions that accommodate the assessment of photocopies.

According to Jurisprudence, evidence in the form of a letter cannot acknowledged whether the copy of the letter without explanation or in any legal way is not declared to be following the original This is contained in the Supreme Court Decision No. 701 K/Sip/1974, dated April 14, 1976. As indicated by the adjudicator's thought, the judex factie based his decision on evidence consisting of photocopies that were not legally stated to be under the originals. At the same

time, there were some important matters which were still substantially disputed by both parties, and the judex factie has decided this case based on weak evidence.

Based on this decision, in submitting a photocopy of the letter as evidence in the trial, the photocopy of the letter must be declared to be under the original. If not, the photocopy of the letter will be weak evidence in the trial. Thus, the written evidence or the letter submitted to the trial is only a photocopy. It does not matter as long as the photocopy of the letter has been adjusted to the original by showing the original at trial. So, proof of photocopy of the letter can be acknowledged whether the copy of the letter has been coordinated with the first or by an authority announced to be under the original. Thus, if the photocopy of the letter is a photocopy of an authentic deed, then after being matched with the original, the photocopy of the authentic deed has perfect and binding proving power.

If the photocopy is a photocopy of a private deed, then after being matched with the original, the photocopy has the same evidentiary power as a private deed. On a photocopy of the deed under the hand. If the opposing party recognizes the signature, then the power of proof of the photocopy of the deed under the hand is binding and perfect but does not have the power of birth proof. Suppose the photocopy of the submitted letter is in the form of a non-deed letter that has been matched with the original. In that case, the photocopy of the non-deed letter is valid as documentary evidence and has the power of independent proof. So, it can be concluded that a photocopy of a letter can be accepted if it has been matched with the original letter or by an authorized official declared under the original. The strength of proof of the photocopy of the letter is the same as the original letter.

In case number 23/Pdt.G/2018/PN Bbs, Karisah is the Plaintiff versus Tasli as Defendant I and Makripin as Defendant II. Plaintiff has filed a lawsuit that Defendant I and Defendant II are a husband and wife, wherein Plaintiff has lent a sum of money to Defendant I in stages with a total of Rp. 191,000,000.

Plaintiff strengthened his argument by submitting evidence in the form of photocopy evidence matched with the original letter, namely a photocopy of the receipt dated May 18, 2018, Submission of Rp. 50,000,000 from Plaintiff to Defendant I (exhibit P-4). The photocopy of the letter, according to the author, is a photocopy of a receipt classified as a unilateral acknowledgment deed. In practice, a receipt (kwitantie) is essentially a proof of payment or proof of receipt of money and a sign of payment. It is also categorized as a deed of acknowledgment of debt, so it must receive the same treatment. For example, this is confirmed in the Supreme Court's decision no. 4669 K/Pdt/1985, it says the receipt is considered a unilateral deed subject to Article 129 paragraph (1) RBg (Article 1878 of the Civil Code). After being matched with the original, a photocopy of the deed under the hand has perfect evidentiary power. And binding.

The Supreme Court believes that if a photocopy of a letter cannot be adapted to the original or a photocopy of a letter that is not corroborated by other evidence, the photocopy of the letter cannot be accepted at trial. This is contained in the Supreme Court Decision No. 112 K/Pdt/1996 dated September 17, 1998. In this case, a photocopy of a letter was submitted by one of the parties to the Civil Court trial to be used as evidence. It turns out that a photocopy of the letter: a. Without accompanied by the original letter to match the original letter "or"; b, without being corroborated by witness statements and other evidence.

The Panel of Judges thinks that, in such a situation, the photocopy of the letter according to the Law of Proof of Civil Procedure cannot be used as valid evidence in court proceedings. The use of the word "or" in the decision explains that there are 2 (two) possibilities that a photocopy of the letter submitted by the litigating parties can be accepted by matching the

photocopy of the letter with the original letter or the photocopy of the letter is supported by other evidence.

Thus, based on the High Court Decision No. 112 K/Pdt/1996, it very well may be inferred that the copy of the letter submitted at the preliminary to demonstrate the contentions set forward can't be coordinated with the first or the copy of the letter isn't upheld by other proof. The copy of the letter can't be acknowledged in that frame of mind of regulation. Common case. Then again, in the event that the copy of the letter can be coordinated with the first or upheld by other proof, a copy of the letter can be acknowledged.

In line with the Supreme Court Decision No. 112 K/Pdt/1996, which allows the receipt of photocopies of letters in civil cases if corroborated by witness statements or other evidence, in Supreme Court Decision No. 410 K/pdt/2004 dated April 25, 2005, a photocopy of the letter was accepted because the photocopy of the letter had been acknowledged and justified by the opposing party. In the case regarding the dispute between the Chancellor and the Foundation at Trisakti University, the judge considered that a letter in a photocopy was submitted at the court hearing as evidence by one of the parties, both the Plaintiff the Defendant. However, the original letter could not be shown at trial because a photocopy of the letter If the evidence has been acknowledged and justified by the opposing party (in case of Evidence P1 is the same as Exhibit T4 and Exhibit P3 is the same as T8), then photocopies of these letters can be accepted as legal evidence in court.

The judge's attachment to jurisprudence, as long as the jurisprudence is following or in line with the legal case being handled, and the fact is that it says so, the judge can use the jurisprudence as the basis for the judge in making decisions. When associated with jurisprudence No. 112 K/Pdt/1996, which states that photocopied evidence cannot be accepted as valid evidence if it is not matched with the original or is not supported by witness statements and other evidence if later there is a case that is in line with the jurisprudence, even though the law does not bind the judge. The jurisprudence, the jurisprudence, can be considered and used as the basis for judges in deciding similar cases.

Based on this explanation, Teguh Samudera's opinion, which states that a photocopy of a letter that the opposing party has acknowledged has the same evidentiary power as the original, can only become a law if a judge uses it in considering the acceptance of a photocopy as evidence and the strength of its proof. Therefore, based on Decision No. 112 K/Pdt/1996 and Decision No. 410 K/pdt/2004 dated April 25, 2005, as well as in the 2010 Supreme Court Jurisprudence Book, if the litigating party submits a photocopy of the letter, which is then corroborated with other relevant evidence, either in the form of a confession by the opposing party or corroborated by testimony, then the photocopy of the letter can be accepted as valid evidence. The evaluation of the photocopy of the letter is fully submitted to the judge examining the case.

3.2 Legal Basis for Judges' Consideration in Examination of Evidence Photocopies of Letters on Decision Number 23/Pdt.G/2018/PN Bbs

One of the fundamental parts of deciding the worth of an adjudicator's choice that contains equity (ex aequo et Bono) and lawful assurance is the appointed authority's thought. The adjudicator's thought additionally contains benefits for the gatherings concerned, so it should be tended to painstakingly, indeed, and cautiously. On the off chance that the appointed authority's contemplations are not careful, sound, and intensive, then, at that point, the adjudicator's choice comes from the adjudicator's contemplations will be canceled by the High Court/Supreme Court.

Assessment of a case likewise requires proof, where the proof outcomes are utilized as thought for the appointed authority in choosing the case. The confirmation is the most basic stage in the assessment at the preliminary, which plans to get assurance that an occasion/truth submitted has happened to get a right and fair appointed authority's choice. The appointed authority can't choose before obviously the occasion/reality happened; that is, the fact of the matter is demonstrated so there seems, by all accounts, to be a lawful connection between the gatherings.

The chief powers of the legal executive are directed in the 1945 Constitution Chapter IX Articles 24 and 25 and Law Number 48 of 2009 concerning Judicial Powers. The 1945 Constitution ensures the presence of free legal power. This is unequivocally expressed in Article 24, particularly in the clarification of Article 24 section 1 and the clarification of Article 1 passage (1) of Law no. 48 of 2009 concerning Judicial Power; it is made sense of that legal power is the force of a free state to direct the legal executive to uphold regulation and equity in light of Pancasila and the 1945 Constitution of the Republic of Indonesia for the execution of the Legal State of the Republic of Indonesia.

Legal power is a free power. This arrangement suggests that legal power is liberated from impedance from extra-legal powers, with the exception of issues as expressed in the 1945 Constitution. Opportunity in practicing legal authority isn't outright on the grounds that judges' errand is to implement regulation and equity in light of Pancasila so the choice mirrors the feeling of equity of the Indonesian public. Then, at that point, Article 18 authenticates that: legitimate power is drilled by a Supreme Court and lawful bodies under it in the general court environment, the severe court environment, the strategic court environment, the state definitive court environment, and a laid out court.

The independence of judges also needs to be presented in an impartial judge. Article 4 paragraph (1) of no. 48 of 2009 concerning Judicial Power. The term impartiality here must not be literal because the judge must side with the right one in making a decision. In this case, it does not mean that it is not impartial in its considerations and judgments. More precisely, the formulation of Law no. 48 of 2009 concerning Judicial Power Article 4 paragraph (1): "The court judges according to the law by not discriminating between people."

An adjudicator is obliged to fair-mindedly maintain regulation and equity. In giving an equity, the adjudicator should initially inspect the reality of the occasion submitted to him, then evaluate the occasion and relate it to the material regulation. From that point forward, the new adjudicator can settle on the episode. An adjudicator is considered to know the law, so he can't decline to analyze and attempt an occasion submitted to him. This is controlled in Article 16 section (1) of Law no. 35 of 1999 jo. Regulation No. 48 of 2009, to be specific: the court may not decline to look at and attempt a case submitted on the affection that the law isn't or alternately isn't clear however is obliged to analyze and attempt it.

In case number 23/Pdt.G/2018/PN Bbs, Karisah is the Plaintiff versus Tasli as Defendant I and Makripin as Defendant II. Plaintiff has filed a lawsuit that Defendant I and Defendant II are a husband and wife, wherein Plaintiff has lent a sum of money to Defendant I in stages with a total of Rp. 191.000.000. Defendant, I was negligent (default) in returning the money. It is appropriate according to law for Defendant I be sentenced to hand over to Plaintiff in the form of money that Plaintiff has submitted to Defendant I as a debt of Rp. 191,000,000-.

The letters in the form of receipts and agreements between Plaintiff and Defendant I are made based on procedures justified by law which is an agreement by both parties. Hence, it is appropriate according to law to be declared valid and has legal force.

Based on the evidence submitted by the Plaintiffs as mentioned above concerning each other, which turned out to be appropriate, the Panel of Judges thought that the Plaintiffs had

been able to prove the main argument in their lawsuit, namely that the Defendants did not fulfill their obligations, namely the payment of the debts of the defendants. However, concerning the value of the money submitted by Plaintiff, the panel of judges disagreed about the value because the evidence submitted, namely Evidence P-4, namely a photocopy of the receipt dated May 18, 2018, only stated that Plaintiff's debt was only Rp. 50,000,000 while witnessing Devi Septiana did not know the amount and witness Warlipah only heard from the Plaintiff about the amount, so it is a testimony de audit.

According to the author, based on the analysis of the decision above, a judge, in finding his law, is allowed to reflect on the jurisprudence and opinions of well-known legal experts (doctrine). Judges in giving decisions are not only based on legal values that live in society. This is explained in Article 5 paragraph (1) of Law no. 48 of 2009, namely: "Judges are obliged to explore, follow, and understand the legal values that live in a society." The basis of judges in making court decisions needs to be based on theory and interrelated research results so that maximum and balanced research results are obtained at the theoretical and practical levels. One of the efforts to achieve judicial legal certainty, where judges are law enforcement officers through their decisions, can be a benchmark for achieving legal certainty.

4 Conclusion

A copy of a letter or composed proof in a common case can be acknowledged whether the copy of the letter has been coordinated with the first or an authority has proclaimed that it is under the first and has great and restricting evidentiary power. In the interim, a copy of a letter that isn't coordinated with the first letter and isn't certified by other proof, then, at that point, the copying proof can't be acknowledged. Nonetheless, assume the copy is subsequently authenticated with other applicable proof, either in the contradicting party's admission or declaration. All things considered, the copy of the letter can be acknowledged as legitimate proof, and the appraisal of the copy of the letter is completely submitted to the appointed authority analyzing the case.

The legitimate reason for the appointed authority's thought in looking at copied proof in Decision Number 23/Pdt.G/2018/PN Bbs is the Jurisprudence of the Supreme Court in Supreme Court Decision No. 3609 K/Pdt/1985 that a copy of a letter/report which can never be demonstrated to be unique can't be considered as proof of a letter as indicated by the Civil Procedure Code. In observing his regulation, an adjudicator is permitted to think about the law and assessments of notable legitimate specialists (convention). Decided in giving choices are not just in view of legitimate qualities that live in the public eye as indicated by Article 5 section (1) of Law no. 48 of 2009.

Judges are obliged to investigate, follow, and grasp the lawful qualities that live in the public eye.In the trial, if the litigating parties submit photocopied evidence that cannot be matched with the original, the judge should not immediately reject or override the photocopied evidence. The judge must first consider other proof presented by the gatherings. Assume the copy of the letter which can't be coordinated with the first letter is viable with other proof. All things considered, the copy of the letter can be acknowledged and has the power of independent evidence, or the judgment is submitted to the judge.

In finding the law, judges are allowed to reflect on the jurisprudence and opinions of well-known legal experts (doctrine). Judges in giving decisions are not only in light of legitimate qualities that live in the public eye; judges are additionally obliged to investigate, follow, and figure out lawful qualities that live in the public eye. The basis of judges in making court

decisions needs to be based on theory and interrelated research results so that maximum and balanced research results are obtained at the theoretical and practical levels.

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