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Reconstructing Asset Recovery Mechanisms Following a Suspect's Death in Corruption Investigations through a Civil 'In Rem' Approach

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Abstract

This study analyzes the legal status of property seized during corruption investigations following a suspect's death at pre-trial and proposes a reconstructive legal framework to strengthen state asset recovery mechanisms. This inquiry departs from a profound doctrinal dilemma in modern, global anti-corruption enforcement: when a suspect dies during the investigation phase, criminal procedural laws generally revoke the state's authority to prosecute, resulting in formal case dismissal without a final judicial conviction. Consequently, a normative loophole arises: the formal procedural obligation to return seized assets to the suspect's heirs conflicts with the substantive mandate to restore illicitly drained public resources. Employing a normative juridical research design that integrates statutory and conceptual approaches, this research uses an Indonesian empirical case study (Court Decision No. 519/Pdt.G/2022/PN Dps) to systematically evaluate the intersection of criminal procedural limitations and civil redress mechanisms. The findings demonstrate that while a suspect's death terminates personal criminal liability (*in personam*), it does not remove or validate the inherently unlawful origin of the underlying property (*in rem*). To resolve this procedural impasse and align with the United Nations Convention Against Corruption (UNCAC) as an international standard, the study concludes that state authorities must shift asset recovery to the civil domain. By empowering prosecutors to act as State Attorneys and file civil compensation lawsuits against heirs, the state can effectively execute non-conviction-based (NCB) asset forfeiture, ensuring accountable asset retrieval while upholding constitutional due process guarantees.

Keywords: Asset Recovery; Seized Property; Suspect's Death; Corruption Investigation; Civil in Rem Lawsuit.

INTRODUCTION

Modern criminal law enforcement against extraordinary crimes, particularly corruption, has undergone a fundamental paradigm shift. Globally, criminal justice systems are no longer exclusively offender-oriented, focusing primarily on retribution and physical incarceration; rather, they have increasingly adopted an asset-oriented framework aimed at recovering losses to public finances. This evolution, consistent with the values embodied in the United Nations Convention Against Corruption (UNCAC), rests on the economic recognition that imprisonment alone cannot deter offenders or compensate for the macroeconomic damage caused by corruption. Based on the "crime does not pay" philosophical principle, the effectiveness of anti-corruption efforts is now increasingly measured by the state's capacity to trace, freeze, and confiscate illicitly acquired assets, whether held by the perpetrators themselves or by their beneficiaries (Zulfa, 2007).

Although asset recovery has become an established international standard, jurisdictions worldwide continue to encounter significant doctrinal obstacles when a suspect dies during the pre-trial investigation stage. Under the conventional principles of criminal procedural law, a suspect's death automatically terminates the state's authority to pursue criminal proceedings in personam. The termination of such proceedings means that no final and legally binding judgment (*inkracht van gewijsde*) can be rendered. Yet, in conventional criminal justice systems, a judicial conviction is an essential statutory predicate for confiscating criminal assets. Without a criminal judgment, standard procedural rules often provide no direct legal mechanism to confiscate seized property and transfer it to the state (Rozah & Nashriana, 2023).

This universal procedural paradox is particularly evident in Indonesia's law enforcement system, which this research uses as an empirical case study. The Attorney General's Office of the Republic of Indonesia has assumed a strategic role in responding to the global trend toward asset recovery, as reflected in Attorney General Guideline No. 7 of 2025 on Asset Recovery and Guideline No. 6 of 2023. These policies call for the accelerated disposition of assets, with a stated objective of achieving "zero backlog." However, this progressive mandate directly conflicts with a longstanding regulatory constraint: Article 77 of the Indonesian Criminal Procedure Code (hereinafter referred to as KUHAP). This provision creates a procedural impasse by requiring the termination of criminal proceedings following the death of a suspect, thereby rendering a criminal conviction impossible.

This procedural impasse leaves a severe normative loophole. Procedurally, Article 46(2) of the KUHAP requires law enforcement authorities to return seized

assets to the heirs of the deceased suspect, as the party legally entitled to them. Substantively, however, such assets may constitute the direct proceeds of corruption and should therefore be returned to the state treasury. Rigid adherence to formal criminal procedural requirements therefore risks legitimizing, or effectively "laundering," illicit wealth through inheritance. This dilemma triggers a sharp conflict between formal procedural certainty and economic justice, as it may ultimately enrich heirs who possess neither a legitimate moral nor economic entitlement to the proceeds of crime.

The state's vulnerability in addressing this loophole is not merely theoretical but has been demonstrated empirically in judicial practice, as illustrated by Denpasar District Court Decision No. 519/Pdt.G/2022/PN Dps. In that case, the heirs successfully brought a civil action against the state seeking the return of seized assets following the suspect's death. Although the court sought to rely on Supreme Court Regulation (PERMA) No. 1 of 2013 concerning procedures for handling assets with the death of a perpetrator, the regulatory framework proved inadequate. The Denpasar case serves as a cautionary tale for any jurisdiction. Without a robust non-conviction-based (hereinafter referred to as NCB) asset recovery mechanism, the limitations inherent in conventional criminal procedural law may ultimately thwart efforts to recover corruption-related assets.

The inherent limitations of criminal procedural law mean the immediate need for alternative legal mechanisms beyond the purely criminal domain. One of the most promising approaches is to operationalize civil litigation through an in rem framework—legal proceedings directed at the asset itself rather than an individual perpetrator. This approach lets the state pursue financial recovery without proving an individual's criminal liability. Within the constitutional and institutional framework of an emerging jurisdiction such as Indonesia, this objective can be attained by optimizing the prosecution service's dual institutional role. In other words, prosecutors should no longer act solely as Public Prosecutors within the criminal justice domain, but should also exercise their function as representatives of the state in civil proceedings, known in Indonesia as State Attorneys *(Jaksa Pengacara Negara),* to safeguard the state's financial interests.

The discourse surrounding asset forfeiture inherently causes normative friction between the effectiveness of criminal law enforcement, which serves to implement deterrence and retribution, and the imperative to protect the property rights of bona fide third parties. This normative tension often becomes a practical dilemma across jurisdictions, including Anglo-American and Israeli legal traditions, particularly when executing forfeiture directly implicates other parties beyond the primary offender, such as family members, creditors, and victims (Farber et al., 2025).

Similarly, contemporary European frameworks highlight the structural complexities of implementing NCB regimes to target illicit proceeds while

maintaining administrative proportionality and human rights compliance (Ochnio, 2021). To unravel this complexity, a cohesive theoretical framework is imperative to harmonize criminal law dogmas with civil property doctrines. Establishing this equilibrium ensures that asset forfeiture remains a formidable instrument against economic crimes without arbitrarily violating the constitutional rights of innocent third parties (Pavlidis, 2022).

While contemporary studies have extensively mapped this friction regarding third-party rights and non-conviction-based confiscation, a critical analytical gap remains. Existing literature has not adequately addressed the extreme manifestation of this dilemma: the severe normative loophole triggered when a corruption suspect dies during the pre-trial investigation phase. In such circumstances, the traditional criminal procedural mechanism abruptly halts, leaving the state defenseless and inadvertently facilitating the legal laundering of illicit wealth through inheritance laws. Current studies lack a systematic reconstruction of the institutional transition required to shift from a stalled criminal investigation directly into an in rem civil litigation conducted by state representatives.

To address this gap, this study systematically analyzes the legal status of property seized during corruption investigations following a suspect's death at the pre-trial stage. Referring to the Indonesian legal framework, specifically the civil compensation mechanism under Article 33 of the Anti-Corruption Law, this research evaluates the intersection between the procedural impasse in criminal law and alternative civil asset recovery. By examining this doctrinal collision, the study seeks to develop a cohesive, applicable framework for in rem asset recovery that closes the existing normative loophole. This legal reconstruction is expected to optimize prosecutors' dual institutional role as State Attorneys in executing civil-based asset forfeiture. Ultimately, this approach ensures the accountable retrieval of illicitly drained public wealth while strictly upholding constitutionally guaranteed procedural safeguards and the principle of due process of law.

METHODS

This study adopts a normative juridical research design, primarily analyzing positive legal norms governing asset recovery mechanisms in corruption offenses; it addresses the legal status of property seized when a suspect dies during the pre-trial investigation phase. This methodological orientation is selected to analyze the existing normative loophole and construct a coherent legal framework that systematically and comprehensively resolves procedural impasses (Marzuki, 2017).

To evaluate this normative conflict, the research integrates three complementary methodological approaches in a narrative framework. First, the statutory approach rigorously examines relevant legislative instruments, including

Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP), Law No. 31 of 1999 on Anti-Corruption, and Law No. 20 of 2001 on Corruption Crime Eradication (Tahir et al., 2023). This approach identifies statutory norms that underlie legal principles and internal inconsistencies surrounding the termination of criminal prosecution and its procedural impact on seized assets. Second, the conceptual approach dissects core legal doctrines, such as NCB asset recovery, the civil in rem mechanism, and prosecutors' dual constitutional function as both Public Prosecutors and State Attorneys. This approach establishes a robust theoretical framework necessary to resolve the normative loophole argumentatively. Third, the case approach involves a qualitative examination of relevant judicial precedents, specifically Denpasar District Court Decision No. 519/Pdt.G/2022/PN Dps. This approach analyzes practical judicial reasoning and judicial patterns in resolving post-dismissal asset disputes.

The analytical corpus consists of three hierarchical categories of legal materials. Primary legal materials comprise binding statutory provisions, national legislation, and procedural rules relevant to corruption investigations and civil state representation. Secondary legal materials include institutional policy frameworks and internal executive guidelines, notably Attorney General Guideline No. 2 of 2022, Attorney General Guideline No. 7 of 2025, and Attorney General Guideline No. 6 of 2023, which provide crucial context regarding prosecutorial asset recovery practices. Tertiary legal materials include authoritative academic literature, peer-reviewed journals, legal commentaries, and scholarly doctrines that reinforce the research's theoretical foundation and argumentative validity (Efendi, 2022).

The study analyzed the legal materials qualitatively using a descriptive-qualitative methodology centered on systematic statutory interpretation. The study also employed comparative interpretation techniques across criminal and civil legal regimes, combined with legal construction methods (*rechtsconstructie*), to develop prescriptive normative solutions to the identified legal loophole. Through this integrated analytical framework, the study delivers a comprehensive, argumentatively sound analysis aimed at empowering prosecutors to optimize state asset recovery in corruption cases.

RESULT AND DISCUSSION

Procedural Impasse and the Legal Status of Seized Assets

Doctrinally, a suspect's death during the pre-trial investigation stage creates profound friction regarding the legal status of property rights over assets seized by the state. Within the conventional criminal justice framework, seized assets are subjected to a strict pro-*justitia* regime (Fadilah, 2022). During an active investigation, these assets perform a fundamental dual function. First, they serve as material evidence needed to establish the perpetrator's mens rea and actus reus in court. Second, they serve as a preliminary safeguard to ensure the state can recover financial

losses once a conviction is secured (Kaban & Kholiq, 2025). This dual function operates exclusively within the boundaries of an active criminal prosecution. When a suspect dies before the case reaches the trial phase, the state's prosecutorial authority is revoked absolutely. Under Article 77 of the Indonesian Code of Criminal Procedure (KUHAP), the right to prosecute is strictly personal (in personam) and terminates upon the death of the accused. Consequently, the evidentiary function of the seized assets effectively ceases, as no legally accountable subject remains to stand trial.

This abrupt termination of prosecutorial authority places the seized assets in a precarious legal limbo. The assets can no longer serve as instruments of criminal proof because the criminal proceedings formally discontinue. Yet, in economic and substantive terms, these assets remain suspected proceeds of corruption whose illicit value the state treasury has not recovered. The core problem lies in the structural rigidity of conventional criminal procedural law, which demands a final, legally binding criminal conviction (*inkracht van gewijsde*) as an absolute prerequisite for state forfeiture (Kc et al., 2025).

Without a final criminal judgment, a procedural impasse severely constrains the state's capacity to act. Within a rigid criminal procedural framework, only a formal conviction legitimizes the legal mechanism for forcibly transferring private ownership to the state (Hryniewicz-Lach, 2024). When an investigation is terminated following the suspect's death, investigators lose their jurisdictional mandate to retain the property. Law enforcement authorities must instead comply with the procedural mandate in Article 46, paragraph (2) of the KUHAP.

This specific provision affirms that upon the termination of a criminal investigation, any seized property must be returned to the party from whom it was confiscated or to those legally entitled to it. In the context of a deceased suspect, the legal heirs are the legally entitled parties. At this juncture, a direct and severe conflict emerges between formal truth and substantive truth. Formal truth demands strict compliance with procedures for terminating criminal proceedings, while substantive truth recognizes the factual reality that the assets are illicit proceeds of economic crime (Kartika & Saputra, 2021). If the state adheres strictly to formal criminal legality and returns the assets, it risks creating an anomaly in the domain of private law. Returning corruption-derived assets to a suspect's heirs effectively allows the legal laundering of illicit wealth through inheritance. Under established civil law doctrines, a deceased person's entire estate enters the inheritance pool and becomes legally inheritable property for the heirs. By returning the assets to the heirs, the state inadvertently legitimizes integrating stolen public funds into the legitimate private economy (Boucht, 2025).

From a strict jurisprudential perspective, this integration violates fundamental tenets of property law. According to the universal legal maxim *nemo plus iuris ad alium*

transferre potest quam ipse habet (no one can transfer a greater right than that which they themselves possess), a suspect who acquired assets through corruption essentially never possessed a valid legal title to those assets. Because the deceased perpetrator's original title was fundamentally defective, any subsequent transfer of that title to the heirs is also equally defective. Allowing corruption-derived assets to enter the inheritance pool seamlessly means the state indirectly validates a defective title from its inception (Trinchera, 2025). Conversely, if state prosecutors retain seized assets while disregarding formal criminal procedural requirements, they create a potentially devastating litigation risk. Prosecutors conducting corruption investigations are currently subjected to strict institutional mandates, such as the "zero backlog" target established under the Attorney General's Guidelines on Asset Recovery. These guidelines require expedited resolution of seized-asset statuses to maximize the restoration of state finances. Driven by these institutional targets, investigators may feel compelled to retain custody of the assets even after the criminal case ends.

Investigators may reasonably maintain that the retained assets constitute the proceeds of corruption, basing their arguments on forensic evidence issued under the Audit Report on State Financial Losses by the Supreme Audit Agency. Nevertheless, physically retaining such assets without explicit judicial authorization following the death of the suspect represents a unilateral administrative action. In a democratic legal system governed by the rule of law, administrative actions that interfere with private property rights must possess an unquestionable statutory basis (Lekgowe, 2023). Without a court order, continued retention of assets amounts to an arbitrary deprivation of property. The severe vulnerability of the state in navigating this procedural impasse is concretely illustrated by Denpasar District Court Decision No. 519/Pdt.G/2022/PN Dps. This case offers a critical empirical perspective on the intersection of the criminal law impasse and the state's vulnerability in civil litigation. In this specific dispute, the heirs of a deceased corruption suspect brought a civil action directly against the prosecutorial investigators. The heirs argued that retaining the seized assets after the suspect's criminal legal status had ceased was an unlawful procedural act.

The civil claim formulated by the heirs readily challenged the state's defensive position because of the differing standards of proof. In a civil dispute over property retention, the heirs needed only to establish formal legal title, such as land certificates or vehicle registration documents in the deceased suspect's name (Borlini & Rose, 2024). Meanwhile, the state's primary defense relied on criminal-law instruments and seizure warrants that had automatically lost their legal force the moment the suspect died. Prosecutors found themselves trying to use expired criminal authority to justify an ongoing civil deprivation of property.

The ratio decidendi of the Denpasar court's decision explicitly exposes the structural weaknesses of relying solely on the criminal forfeiture regime. The

presiding judges emphasized that any state interference with private property rights must strictly comply with the constitutional principle of due process of law. The court noted that even if investigators subjectively believed the assets were the proceeds of corruption, a criminal seizure order cannot automatically become permanent state forfeiture without an independent, final judicial determination.

The court further ruled that any unilateral administrative decision issued by investigators to appropriate or retain the assets as part of the deceased suspect's estate was legally defective. Because the criminal case was formally discontinued, the prosecutors acted ultra vires, exceeding the powers granted under the KUHAP. This precedent reinforces the doctrine that state authorities cannot bypass judicial oversight simply to meet administrative asset-recovery targets.

Retaining assets outside a valid legal pathway can be financially catastrophic for the state (Maugeri, 2024). As shown in the Denpasar precedent, a civil court can systematically characterize the prolonged retention of assets by law enforcement authorities as an unlawful act by the government (*Onrechtmatige Overheidsdaad*). Under Article 1365 of the Indonesian Civil Code, any party that commits an unlawful act that harms another must provide full compensation. When this civil provision is applied to prosecutorial investigators, the state's legal position is effectively and devastatingly reversed.

Instead of acting as the sovereign entity seeking to recover public financial losses, the state becomes the civil defendant. If the court rules for the heirs, it may not only order the immediate return of the disputed assets but also impose severe financial penalties on the government. The state could be mandated to pay compensation for material losses, moratory interest for the duration the assets were withheld, and all associated litigation costs. Ironically, the state would pay these financial compensations from the state budget directly to the family members of the alleged corruption perpetrator.

This scenario highlights a profound systemic failure in which the pursuit of asset recovery inadvertently further depletes state finances. The rigid separation between criminal and civil jurisdictions in traditional law enforcement creates loopholes that sophisticated legal practitioners can exploit on behalf of heirs. When investigators fail to recognize the jurisdictional shift triggered by a suspect's death, they inadvertently expose the state to multidimensional liabilities.

The comprehensive doctrinal and empirical analysis above clearly indicates that conventional criminal procedural law has reached its absolute limits. It is no longer capable of providing an effective remedy when the primary legal subject dies before trial. Reliance on criminal-law instruments alone will consistently result in the failure to recover illicit assets and will continuously expose the state to civil lawsuits. Accordingly, a structural and reconstructive legal framework is urgently required to

overcome these statutory weaknesses. Resolving this complex problem requires a paradigm shift: a jurisdictional transition into the civil-law domain through an in rem compensatory action initiated proactively by the state's legal representatives.

The In Rem Civil Action as an Antithesis to Criminal Forfeiture

To overcome the doctrinal impasse in the traditional criminal forfeiture regime, an epistemological shift beyond conventional criminal procedure is required. Criminal forfeiture derives its validity strictly from the established criminal liability of a legal subject. This in personam doctrine mandates that the state must secure a conviction against a living perpetrator before it can confiscate their property. When the death of a suspect abruptly removes this personal liability, the state is rendered legally incapable. Consequently, the legal system must shift toward civil litigation through an in rem approach, a radical and necessary antithesis to the rigid constraints of criminal law.

The in rem mechanism operates by effecting a profound juridical severance between the personal culpability of the perpetrator and the objective proprietary status of the asset itself. Under this doctrine, the state no longer seeks to impose bodily sanctions, establish criminal intent, or prove the moral culpability of a deceased individual (Gollop & Brown, 2026). Instead, the legal action is directed independently and objectively against the tainted property. This approach recognizes that property derived from criminal conduct carries an inherent, enduring taint that attaches directly to the asset, regardless of who currently exercises formal possession or control over it.

This concept of juridical severance reflects a critical transformation in modern legal philosophy regarding economic crimes. Large-scale financial crimes, particularly systemic corruption, leave extensive material and financial traces that persist independently of the perpetrators' biological lifespans (Hryniewicz-Lach, 2023). When a corruption suspect dies before a final, legally binding judgment can be rendered, the physical person effectively escapes the criminal courts' jurisdiction. However, the illicit wealth left behind continues to exist tangibly within the social and economic sphere, demanding an alternative jurisdictional response to prevent the permanent loss of public funds (Calamunci et al., 2022). From a broader philosophical perspective, John Rawls's Theory of Distributive Justice strongly reinforces the legitimacy of recovering assets through an in rem civil mechanism. Rawlsian principles assert that legal and social institutions must be structured to serve the broader public interest, particularly by protecting the welfare of society's least advantaged members. Corruption is an extraordinary crime that causes extensive, measurable harm to the public's constitutional rights. It systematically diverts critical public resources originally allocated for national infrastructure, healthcare, and education into private accumulations of wealth.

Allowing corruption-derived assets to pass seamlessly to legal heirs would directly violate this distributive justice. Such a passive regulatory stance inadvertently perpetuates structural social inequality. It allows specific individuals or families to benefit immensely from illicitly acquired wealth without having made any legitimate productive contribution to society. Furthermore, it simultaneously forces the broader public to bear the macroeconomic costs of the original corrupt act. By initiating a civil lawsuit to recover these assets, the state effectively intervenes to restore the disrupted social and economic equilibrium.

This philosophical foundation is supported by established private law doctrines, specifically the principle *nemo plus iuris ad alium transferre potest quam ipse habet*. This universal maxim dictates that no individual can transfer to another party a greater legal right or title than they themselves legitimately possess. In the context of corruption, a deceased suspect who accumulated wealth through fraudulent practices fundamentally never possessed a substantively valid legal title to that specific wealth. The initial acquisition of the property was legally defective from the moment the illicit act occurred.

Because the predecessor's title was inherently defective, any subsequent transfer of that title through the mechanism of inheritance is equally flawed. Consequently, assets derived directly from criminal conduct cannot and should not qualify as legitimate components of the inheritable estate. Heirs who receive such tainted property occupy, as a matter of strict private law, no better legal position than their predecessor. The state has a legitimate civil cause of action to challenge the inclusion of these assets in the inheritance pool, arguing that they fundamentally belong to the state treasury (Moiseienko, 2024). If the heirs are permitted to retain the proceeds of corruption simply because the criminal prosecution ended, their possession becomes a classic case of unjust enrichment. Civil law frameworks universally prohibit individuals from enriching themselves at others' expense without a valid legal basis. In corruption cases, the state is the injured party, and the heirs' wealth represents a direct financial loss to the public. The in rem civil action provides the exact doctrinal instrument required to rectify this unjust enrichment, allowing the state to demand compensation equivalent to the illicitly acquired assets.

Beyond philosophical and doctrinal justifications, the most decisive operational advantage of in rem civil litigation lies in the flexibility of its evidentiary standards. In traditional criminal proceedings, law enforcement authorities must meet the demanding standard of proof termed "beyond a reasonable doubt." This exceptionally high threshold protects individuals from wrongful imprisonment. However, this standard becomes structurally impossible to meet when the accused dies, as they can no longer be cross-examined or tried.

Civil litigation, by stark contrast, functions under the preponderance-of-the-evidence standard, commonly understood as the balance of probabilities. This standard fundamentally shifts the dynamic of asset recovery. The state is no longer required to prove the deceased suspect's criminal intent with absolute certainty. Instead, state prosecutors, in their civil capacity, must only demonstrate that it is more likely than not that the targeted assets were derived from unlawful activities. This evidentiary threshold is significantly more conducive to resolving complex financial disputes involving deceased individuals (Clancy, 2021).

Under the civil standard of proof, the state can present arguments based on unexplained wealth. Prosecutors can construct a compelling civil case by conducting a comparative financial analysis (Raof, 2023). They can objectively compare the deceased suspect's documented historical financial profile and legitimate sources of income, such as official salary records and tax returns, against an asset portfolio whose astronomical value is entirely disproportionate to those legitimate sources. If the heirs cannot provide a lawful explanation for the financial discrepancy, civil courts can order forfeiture (Chistyakova et al., 2021). To operationalize this civil-law instrument effectively, law enforcement institutions must undergo a fundamental structural reorganization. They must move beyond siloed approaches and optimize the dual constitutional role of the prosecution service. Within Indonesia's institutional framework, this transformation requires seamless functional synchronization between the prosecutor's role as a criminal investigator and their mandate to act as the state's civil representative. When the criminal-law pathway is permanently discontinued following the death of the suspect, the prosecution service must proactively activate its civil-law mandate.

This vital institutional transformation requires systematic, structured, and rapid cross-divisional coordination. The moment an order terminating a criminal investigation is formally issued following a suspect's death, the specialized criminal division must not merely archive the case files. Instead, it must seamlessly transfer the entire investigative database to the civil and administrative affairs division. This database includes valuable financial intelligence reports, forensic audits detailing state financial losses, banking transaction records, and complex money-trail analyses (Mamak et al., 2022).

Once the civil division receives these criminal-investigation materials, it must methodically reconstruct them as valid evidence for civil proceedings. The State Attorneys can refer to the forensic audits to formulate a precise civil claim for compensation under Article 33 of the Anti-Corruption Law in conjunction with tort law principles. By repackaging criminal intelligence as civil evidence, the state ensures that previously expended substantial investigative resources are not wasted, and the objective of restoring public financial losses is pursued relentlessly in an accountable judicial forum.

The most critical tactical step in initiating this civil litigation is securing immediate control over the assets. Simultaneously with the filing of the civil compensation lawsuit, State Attorneys must apply for a provisional or conservatory attachment order from the presiding civil court. Once a judicial order for such attachment is granted, the state possesses a highly legitimate and independent jurisdictional basis for maintaining physical and administrative control over the disputed assets. This judicial mandate effectively prevents the heirs from transferring, dissipating, concealing, or liquidating the property while the civil trial is ongoing (Simonato, 2015). Furthermore, securing a conservatory attachment order provides an impenetrable legal shield for state investigators. As previous jurisprudential failures show, retaining assets without a court order exposes the state to severe civil liabilities and allegations of unlawful governmental acts. By placing the assets under the formal jurisdiction of a civil court, the state neutralizes any counterclaims by the heirs alleging arbitrary administrative retention. The disputed assets remain legally preserved under court supervision until a final and legally binding civil judgment is ultimately rendered (Sittlington & Harvey, 2018).

Although the in rem civil mechanism provides significant strategic advantages to the government, it must consistently operate strictly within the parameters of constitutional protection. A civil forfeiture action does not constitute a form of arbitrary state confiscation. Rather, it provides an open, transparent, adversarial judicial forum that upholds due process of law. In this civil forum, the legal heirs have a full and fair opportunity to defend their property interests. They hold the absolute right to present exculpatory evidence establishing that they qualify as bona fide third parties.

If the heirs successfully demonstrate that a specific portion of the seized assets was lawfully acquired through legitimate income, entirely unrelated to any corruption scheme, the civil court is obligated to protect those private-law rights. Conversely, if the heirs fail to rebut the state's evidence showing the unlawful acquisition of the wealth, the court will order the permanent transfer of those assets to the state treasury. Through this hybrid design, the state bridges the gap between formal legal certainty and substantive economic justice, turning the limitations of criminal procedure into an effective model for restorative asset recovery.

CONCLUSION

This study concludes that a suspect's death at pre-trial revokes personal criminal liability under Article 77 of the Criminal Procedure Code (KUHAP), leaving the inherently unlawful origin of seized property intact (in rem). To close this normative loophole and prevent the unintended "laundering" of illicit wealth through inheritance, the Prosecutor's Office must initiate a structural transition from criminal

investigation to civil litigation. Specifically, upon issuing an Order to Terminate Investigation (SP3), the Special Crimes Division must transfer forensic intelligence to State Attorneys to file a civil compensation lawsuit against the legal heirs under Article 33 of the Anti-Corruption Law in conjunction with Article 1365 of the Civil Code.

Securing a civil Provisional Attachment Order (*Conservatoir Beslag*) immediately upon case dismissal gives the state an independent judicial title to maintain custody of the assets and insulate it from claims of unlawful administrative retention. By leveraging the civil standard of proof-preponderance of evidence and the maxim *nemo plus iuris ad alium transferre potest quam ipse habet*, State Attorneys can legally establish that the deceased never acquired valid title over the property, enabling civil courts to mandate permanent non-conviction-based (NCB) forfeiture. This reconstructive framework effectively closes statutory gaps, transforming anti-corruption enforcement into a functional model of restorative asset recovery while upholding constitutional due process guarantees.

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