

Dissertation Title	Legal Interests in Criminal Law : Study the Offence of Receiving Stolen Property
Author	Kattarawadee Sitongsua
Thesis Advisor	Professor Dr. Surasak Likasitwatanakul
Department	Law
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ABSTRACT

The provisions of criminal acts always include something that the law aims to protect. This thing does not have a form and is not an object or a person, but it is a desirable condition that the law would like to secure from violation, which is the matter of thoughts. In the German textbooks, this thing is called “Rechtsgut” or “legal interest.” All the legal interests which have been raised to become legal interests in criminal law, either in the criminal code or in other criminal laws, are considered important legal interests which are necessary for the coexistence of human beings in the society. The offences of receiving stolen property according to the criminal code number 357 also include a legal interest, which is the right of the property owner to reclaim the property. As for the judgment whether an action is an offence of receiving stolen property or not, the consideration must be done in accordance with the structure of the criminal code number 357. In case that the code is ambiguous or unclear, the interpretation of criminal law is necessary. Such interpretation cannot apply only one principle since it may cause an error or injustice in the explanation or supporting reason of the adjudication. However, according to the study of some judgments of the Supreme Court regarding the offences of receiving stolen property, it is discovered that legal interests were not included in the court’s diagnosis. Besides, some cases were more of the word-by-word interpretation of law rather than the attempt to understand the purpose of the law, what it aimed to protect or what the legal interest of the provision was.

Consequently, the explanations or supporting reasons of some judgments of the Supreme Court were not in accordance with the legal theories. It may also be possible that the court actually considered the legal interests but did not show it in written documents, which caused confusion and misunderstanding regarding the guidelines of criminal liability of the offences of receiving stolen property, which derived from the ambiguity of the reasons that the court applied. The most worrisome result is that it may lead to injustice for those who receive criminal punishment. Therefore, the diagnosis of the criminal offences of receiving stolen property must also include the consideration of legal interests; that is, the right of the property owner to reclaim the property must also be taken into account. The consideration should be made to see if an action impedes the reclamation of property or makes the reclamation more difficult, and whether the reclaimed property still has the value or serves the owner's purpose or not. Such consideration will allow the judgment to be made easier in the righteous manner according to legal theories, resulting in justice in the criminal judgment procedure.