

**ANALISIS HUKUM PERTIMBANGAN HAKIM MAHKAMAH AGUNG DALAM
PEMBATALAN PERDAMAIAN KEPAILITAN PT. PAL DAN AKIBATNYA
PADA KEPASTIAN HUKUM ATAS PEMBAYARAN KEPADA KREDITOR
LAINNYA
(STUDI PUTUSAN KASASI: NOMOR 1434 K/PDT.SUS-PAILIT/2020)
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INTISARI

Penulisan Hukum ini bertujuan untuk mengetahui dan menganalisis pertimbangan Hakim Mahkamah Agung terhadap pembatalan perdamaian PT. PAL dikaitkan dengan UUK PKPU dan mengetahui kepastian hukum atas pembayaran kepada para kreditor akibat pembatalan perdamaian PT. PAL.

Penelitian dalam Penulisan Hukum ini termasuk ke dalam jenis penelitian hukum normatif empiris. Lokasi penelitian ini berada di wilayah Jakarta. Penulis memperoleh data sekunder dari studi Pustaka dan data primer dari wawancara subjek penelitian. Data yang diperoleh kemudian diolah secara deskriptif kualitatif.

Hasil penelitian yang ditemukan yakni, pertama, pertimbangan Hakim Mahkamah Agung dalam pembatalan Homologasi dari PT.PAL dikarenakan pelaksanaan PKPU tidak sesuai dengan Pasal 280 dan 281 UUK PKPU. Adanya inkonsistensi aturan dalam UUK PKPU atas kedudukan kreditor separatis dalam proses PKPU dan alasan pembatalan homologasi PT.PAL tidak sesuai dengan alasan-alasan penolakan homologasi yang diatur dalam Pasal 285 UUK PKPU. Kedua, kepastian hukum pada saat PT. PAL dinyatakan pailit kepada kreditor yang telah menyetujui homologasi yakni Putusan Homologasi secara otomatis tidak berlaku sehingga perdamaian yang telah disahkan sebelumnya menjadi tidak mengikat para pihak. Kreditor akan mendapatkan pembayaran secara *pro rata* dari hasil pembayaran atas harta yang berhasil diberekan.

Kata Kunci: Pertimbangan Hakim, Pembatalan Perdamaian, Kepailitan, Kepastian Hukum, Kreditor.

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LEGAL ANALYSIS OF JUDGES CONSIDERATION IN THE SUPREME COURT VERDICT REGARDING ANNULMENT ATTRIBUTED TO THE HOMOLOGATION OF PT PAL'S BANKRUPTCY AND ITS CONSEQUENCES IN TERMS OF LEGAL CERTAINTY RELATING TO OTHER CREDITORS REPAYMENT PROCESS (STUDY CASE OF SUPREME COURT VERDICT: NUMBER 1434 K/PDT.SUS-PAAILIT/2020)

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ABSTRACT

This legal writing are written in hopes to further discover and explore the consideration made by Supreme Court Panel of Judges on the subject of annulment attributed to homologation process done in PT PAL case, which then got associated with the suspension of debt repayment process (PKPU) regulated in Act Number 37 Year 2004 about Bankruptcy and Postponement of Debt Settlement Obligation (further referenced as Bankruptcy Law), whilst also understand the legal certainty of the debt repayment process done as a consequence from revocating PT PAL's homologation settlement.

The research method in this Legal Writing could then be categorized using a normative-empirical approach. The research was then conducted in the Jakarta area. The secondary data within this writing were obtained by the author through literature study from various sources, while the primary data came from interviews with research subjects. All the data acquired would then get qualitatively and descriptively processed to assemble the analysis.

The research findings are as follows: First, the consideration made by Supreme Court Panel of Judges on the subject of annulment attributed to homologation process done in PT PAL case are due to the non-compliance aspect to the Suspension of Debt Payment Obligations (PKPU), specifically towards Article 280 and 281 of Bankruptcy Law. Other findings prior to the previous statement are discrepancies within the Bankruptcy Law relating to the each standings of separate creditors within the PKPU process and the annulment of PT PAL's homologation do not align as stipulated in Article 285 of Bankruptcy Law, which further disclose reasons for rejecting a homologation. Second, legal certainty is certainly being affected due to the consideration contained within the verdict. This was interpreted as homologation settlement done by creditors who had already agreed on methods of settling the debt of PT PAL's when it's declared bankrupt became ineffective, rendering it to be non binding to all parties involved prior to the homologation process. Each creditor will now then receive their debt resettlement payment using a *pro-rata* system from PT PAL's recovered assets.

Keywords: Judges Consideration, Homologation Annulment, Bankruptcy, Legal Certainty, Credito

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