

## INTISARI

### **ANALISIS YURIDIS PERBUATAN MELAWAN HUKUM KURATOR DALAM PENGURUSAN DAN PEMBERESAN HARTA PAILIT (STUDI PUTUSAN NO. 110K/PDT.SUS-PAILIT/2016)**

**Keysa Aulia Syifa<sup>1</sup> dan Tata Wijayanta<sup>2</sup>**

Penelitian ini bertujuan untuk mengetahui dan menganalisis pengaturan terkait batasan tindakan Kurator dalam pengurusan dan pemberesan harta pailit yang termasuk perbuatan melawan hukum dan mengetahui dan menganalisis pertanggungjawaban Kurator dalam hal Kurator melakukan suatu perbuatan melawan hukum dalam pengurusan dan pemberesan harta pailit. Penelitian ini merupakan penelitian yuridis normatif yang didukung dengan wawancara narasumber. Sifat penelitian ini adalah deskriptif. Jenis data yang digunakan adalah data primer yang didapatkan dari wawancara terhadap narasumber dan data sekunder yang didapatkan dari studi dokumentasi. Data yang diperoleh dari hasil penelitian ini dianalisis dengan metode kualitatif. Hasil penelitian dan pembahasan penelitian ini menunjukkan tidak adanya kekosongan hukum dalam UUK PKPU tentang batasan tindakan Kurator dalam pengurusan dan pemberesan harta pailit yang termasuk perbuatan melawan hukum karena telah diatur mekanisme gugatan lain-lain bagi Kurator yang karena kesalahan dan kelalaiannya telah menimbulkan kerugian terhadap harta pailit. Pertanggungjawaban Kurator juga telah diatur dalam Pasal 72 UUK PKPU dan Kode Etik AKPI. Kesimpulan penelitian ini adalah Kurator yang melakukan perbuatan melawan hukum dapat digugat dengan dasar Pasal 1365 KUHPerdara karena UUK PKPU telah mengatur mekanisme gugatan lain-lain. Pertanggungjawaban Kurator dibagi menjadi dua yakni pertanggungjawaban jabatan atau pertanggungjawaban dalam kapasitasnya sebagai Kurator dan pertanggungjawaban pribadi. Tanggung jawab jabatan adalah tanggung jawab sejak Kurator ditunjuk hingga Kurator selesai dalam pelaksanaan tugas pengurusan dan pemberesan harta pailit. Tanggung jawab pribadi adalah tanggung jawab yang melekat kepada diri Kurator meskipun Kurator telah mundur dari perkara kepailitan yang diurusnya. Kurator yang melakukan perbuatan melawan hukum bertanggung jawab secara pribadi dan wajib mengganti kerugian bahkan dengan harta pribadi yang dimilikinya. Saran berdasarkan hasil penelitian ini adalah Kurator dalam menjalankan tugas dan wewenangnya dalam pengurusan dan pemberesan harta pailit harus bertanggung jawab dan berpedoman pada UUK PKPU dan Kode Etik AKPI.

**Kata Kunci:** Perbuatan Melawan Hukum, Kurator, Kepailitan, Pengurusan dan Pemberesan Harta Pailit

---

<sup>1</sup> Mahasiswa Program Studi S-1 Ilmu Hukum Fakultas Hukum Universitas Gadjah Mada Yogyakarta (email: [keysa.aulia.s@mail.ugm.ac.id](mailto:keysa.aulia.s@mail.ugm.ac.id))

<sup>2</sup> Guru Besar Hukum Acara Perdata Kekhususan Acara Kepailitan Departemen Hukum Perdata Fakultas Hukum Universitas Gadjah Mada Yogyakarta (email: [wijayanta@mail.ugm.ac.id](mailto:wijayanta@mail.ugm.ac.id))

## ABSTRACT

### **JURIDICAL ANALYSIS OF CURATOR'S ACT AGAINST THE LAW IN THE MANAGEMENT AND ADMINISTRATION OF BANKRUPTCY ASSETS (STUDYING JUDGMENT NO. 110K/PDT.SUS-PAILIT/2016)**

**Keysa Aulia Syifa<sup>1</sup> dan Tata Wijayanta<sup>2</sup>**

*This research aims to find out and analyze the arrangements related to the limitations of the Curator's actions in the management and administration of bankruptcy assets which include act against the law and to find out and analyze the Curator's responsibility in the event that the Curator commits act against the law in the management and administration of bankruptcy assets. This research is a normative juridical research supported by interviews with sources. The character of this research is descriptive. The types of data used are primary data obtained from interviews with sources and secondary data obtained from documentation studies. The data obtained from the results of this study were analyzed using qualitative methods. The results of the research and discussion of this study indicate that there is no legal vacuum in the Bankruptcy Law regarding the limitations of the Curator's actions in the management and administration of bankruptcy assets which include act against the law because the mechanism for other lawsuits has been regulated for Curators who due to their errors and negligence have caused losses to bankruptcy assets. The Curator's liability is also regulated in Article 72 of the Bankruptcy Law and the Curator's Code of Ethics. The conclusion of this research is that curators who commit act against the law can be sued on the basis of Article 1365 of the Civil Code because the Bankruptcy Law has regulated the mechanism of other lawsuits. The Curator's responsibility is categorized into two, namely the official responsibility or responsibility in his capacity as Curator and personal responsibility. Official responsibility is the responsibility from the time the Curator is appointed until the Curator is finished in carrying out the task of managing and administrating the bankruptcy assets. Personal liability is a responsibility that stays with the Curator even though the Curator has retired from the bankruptcy case being managed by them. Curators who commit act against the law are personally liable and are obliged to compensate for losses even with their personal assets. The recommendation based on the results of this study is that the Curator in carrying out his duties and authority in managing and administrating bankruptcy assets must be responsible and guided by the Bankruptcy Law and the Curator's professional Code of Ethics.*

**Keywords:** Act Against The Law, Curator, Bankruptcy, Management and Administration of Bankruptcy Assets

---

<sup>1</sup> Undergraduate Student in Faculty of Law, Gadjah Mada University, Yogyakarta (email: [keysa.aulia.s@mail.ugm.ac.id](mailto:keysa.aulia.s@mail.ugm.ac.id))

<sup>2</sup> Professor of Civil Procedural Law specialising in Bankruptcy Procedural Law, Department of Civil Law, Faculty of Law, Gadjah Mada University, Yogyakarta (email: [wijayanta@mail.ugm.ac.id](mailto:wijayanta@mail.ugm.ac.id))