

ANALISIS PUTUSAN PERKARA PAILIT AKIBAT TIDAK TERPENUHINYA PASAL 15 AYAT (4) UNDANG - UNDANG KEPAILITAN DAN PENUNDAAN KEWAJIBAN PEMBAYARAN UTANG BERKAITAN DENGAN ASAS KEPASTIAN, KEADILAN DAN KEMANFAATAN (STUDI PUTUSAN MAHKAMAH AGUNG NO. 1691K/Pdt.Sus-Pailit/2022)

INTISARI

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Penelitian ini bertujuan untuk mengetahui dan menganalisis mekanisme pelaksanaan Kepailitan dalam adanya pengajuan permohonan pailit kedua kalinya terhadap kasus yang sama serta untuk mengkaji dan menganalisis pertimbangan hakim atas putusan yang dibuat kepada debitor sehingga dijatuhkan putusan pailit yang kedua kalinya yang berimplikasi terhadap pelaksanaan putusan dalam pemberesan harta pailit. Penelitian tesis ini menggunakan pendekatan bersifat deskriptif analisis dan merupakan penelitian normatif yang menggunakan metode pendekatan berdasarkan peraturan perundang-undangan (*statute approach*), pendekatan konseptual (*conseptual approach*), dan pendekatan kasus (*case approach*). Penelitian ini bertujuan untuk menganalisis situasi- situasi terkait isu yang dihadapi dan telah diputuskan oleh pengadilan serta memiliki kekuatan hukum tetap. Bahan yang digunakan dalam penelitian tesis ini terdiri dari data sekunder yang berupa bahan hukum primer yaitu peraturan perundang-undangan, serta bahan hukum sekunder yang berupa literatur hukum. Analisis data yang digunakan dalam penelitian tesis ini dilakukan secara kualitatif.

Hasil penelitian dan pembahasan menunjukkan penerapan asas kepastian hukum, keadilan, dan kemanfaatan oleh hakim dalam menangani dua permohonan pembatalan homologasi terhadap debitor yang sama penting untuk mencegah putusan pailit yang tidak bertentangan peraturan perundang-undangan. Pertama, hakim harus memutuskan berdasarkan peraturan yang berlaku, termasuk yurisprudensi dan konteks kasus, serta mempertimbangkan permohonan pailit yang berulang. Kedua, asas keadilan mengharuskan perhatian pada kepentingan semua pihak terkait, termasuk kreditor lain, untuk mencapai keputusan yang adil. Ketiga, asas kemanfaatan mendorong hakim untuk mempertimbangkan dampak publik dari keputusan pailit, termasuk perlindungan terhadap kreditor yang bukan pihak dalam perkara permohonan pailit. Dalam kasus Mahkamah Agung Nomor 1691 K/Pdt.Sus-Pailit/2022, hakim mempertimbangkan Pasal 15 ayat (4) UUK PKPU untuk membatalkan putusan tingkat pertama, tetapi terdapat kesalahan dalam pertimbangan hakim terkait pengumuman koran sehingga tidak mencerminkan penegakan hukum yang seimbang dan objektif, yang seharusnya memberikan solusi bermanfaat bagi masyarakat dan kreditor.

Kata Kunci: Pasal 15 ayat (4), Asas Kepastian Hukum, Asas Kemanfaatan, Asas Keadilan, Putusan Kepailitan, Debitor

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ANALYSIS OF BANKRUPTCY CASE DECISIONS DUE TO NON-COMPLIANCE WITH ARTICLE 15 PARAGRAPH (4) OF THE BANKRUPTCY AND SUSPENSION OF DEBT PAYMENT OBLIGATIONS LAW IN RELATION TO THE PRINCIPLES OF LEGAL CERTAINTY, JUSTICE, AND BENEFIT (STUDY OF SUPREME COURT DECISION NO. 1691K/Pdt.Sus-Pailit/2022)

ABSTRACT

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This research aims to determine and analyze the mechanism for implementing Bankruptcy in the event of a second bankruptcy petition being filed for the same case as well as to examine and analyze the judge's consideration of the decision made to the debtor so that a second bankruptcy decision is passed which has implications for the implementation of the decision in settling bankruptcy assets. This research uses a descriptive analysis approach and is normative research that uses an approach method based on statutory regulations, a conceptual approach and a case approach. This research aims to analyze situations related to issues that are faced and have been decided by the court and have permanent legal force. The materials consist of secondary data in the form of primary legal materials, namely statutory regulations, as well as secondary legal materials in the form of legal literature. Data analysis used in this thesis research was carried out qualitatively.

The indicates that applying the principles of legal certainty, justice, and benefit by judges in handling two requests for the cancellation of homologation against the same debtor is crucial to prevent conflicting bankruptcy decisions. First, judges must base their decisions on applicable regulations, including jurisprudence and the context of the case, while also considering repeated bankruptcy applications. Second, the principle of justice necessitates attention to the interests of all related parties, including other creditors, in order to reach a fair decision. Third, the principle of benefit encourages judges to consider the public impact of a bankruptcy decision, including the protection of creditors who are not parties to the bankruptcy petition. In the Supreme Court case Number 1691 K/Pdt.Sus-Pailit/2022, the judge relied on Article 15 (4) of the Bankruptcy and Suspension of Debt Payment Obligations Law Number 34/2004 to annul the first-instance decision; however, there was an error in the judge's consideration regarding the newspaper announcement, resulting in a lack of balanced and objective law enforcement, which should provide a beneficial solution for society and creditors.

Keywords: Legal Certainty, Justice, Benefit, Bankruptcy Petitions, Debtor

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