

A Legal Analysis of the Extension of Suspension of Debt Payment Obligation (PKPU) in the Context of Affiliated Creditors from the Perspective of the Going Concern Principle (Case Study: Central Jakarta Commercial Court Decision No. 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst)

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ABSTRACT

This study aims, first, to examine and understand the judicial considerations underlying the Panel of Judges' decision, based on the recommendation of the Supervisory Judge, to grant an extension of the Suspension of Debt Payment Obligations (PKPU) period to the debtor on the grounds of going concern, despite the fact that the proposed composition plan was rejected twice by the majority of creditors. Second, the study analyzes the implications of the going concern principle of the PKPU process in the ETWA Group case. Third, it evaluates the application of the principles of justice and legal certainty concerning affiliated creditors within the ETWA Group PKPU case, based on the Supervisory Judge's considerations and the provisions of the Indonesian Bankruptcy and PKPU Law (Law No. 37 of 2004).

This research employs a normative-empirical research method with a descriptive approach. Primary data were obtained through Decision No. 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst and interviews with respondents, namely the PKPU Administrator of the ETWA Group and informants including a Public Accountant. Secondary data were collected through literature review. The legal approaches used include statutory, case, and conceptual approaches. Data were analyzed qualitatively, and conclusions were drawn deductively.

The conclusions of this research indicate that the Panel of Judges' decision, based on the Supervisory Judge's recommendation to extend the PKPU period, was grounded in the debtor's going concern status despite repeated rejections by the majority of creditors. The restriction of voting rights of affiliated creditors created legal uncertainties and raised issues of inconsistency in judicial decisions, which contradict the principles of justice, legal certainty, and utility, while also allowing judicial discretion not clearly regulated under the Bankruptcy and PKPU Law. The use of going concern as a juridical basis without objective parameters resulted in the ineffectiveness and legal uncertainty of the PKPU process.

The author concludes that there is an urgent need for regulatory reform, either through amendments to the Bankruptcy and PKPU Law or through implementing regulations, in order to ensure a balanced legal protection for both creditors and debtors, as well as to guarantee the effectiveness and consistency of the PKPU process.

Keywords: *Suspension of Debt Payment Obligations (PKPU), affiliated creditors, going concern, legal certainty, disparity in judicial decisions.*

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**ANALISIS HUKUM PERPANJANGAN WAKTU PKPU TERHADAP
ADANYA KREDITOR AFILIASI DITINJAU BERDASARKAN ASAS
GOING CONCERN (STUDI KASUS PUTUSAN PENGADILAN NIAGA
JAKARTA PUSAT NO. 300/PDT.SUS-PKPU/2023/PN.NIAGA.JKT.PST)**

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INTISARI

Penelitian ini bertujuan, pertama untuk mengetahui dan memahami pertimbangan putusan Majelis Hakim berdasarkan rekomendasi Hakim Pengawas yang memberikan perpanjangan waktu PKPU terhadap debitor dengan alasan *going concern* meskipun hasil rapat pemungutan suara telah dua kali ditolak oleh mayoritas kreditor. Kedua, menganalisis implikasi asas *going concern* terhadap proses PKPU ETWA Grup dan ketiga, menganalisis dan mengkaji penerapan asas keadilan dan kepastian hukum terhadap kreditor afiliasi dalam Perkara PKPU ETWA Grup ditinjau dari pertimbangan Hakim Pengawas dan UU KPKPU.

Penelitian ini menggunakan metode penelitian normatif-empiris bersifat deskriptif dengan sumber data yang digunakan adalah data primer yang berupa Putusan No. 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst dan wawancara dengan Responden yaitu Pengurus PKPU ETWA Grup dan Narasumber yaitu Akuntan Publik, sedangkan data sekunder diperoleh melalui penelitian kepustakaan. Metode pendekatan masalah yang digunakan yaitu pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Analisa data menggunakan metode kualitatif, dan metode penarikan kesimpulan dilakukan secara deduktif.

Hasil penelitian ini menunjukkan bahwa putusan Majelis Hakim berdasarkan rekomendasi dari Hakim Pengawas terkait perpanjangan waktu PKPU kepada debitor didasarkan pada pertimbangan adanya *going concern* meskipun mayoritas kreditor telah dua kali menolak dan pembatasan terhadap hak suara kepada kreditor terafiliasi menimbulkan problematika hukum dan menciptakan disparitas putusan yang bertentangan dengan asas keadilan, kepastian hukum, dan kemanfaatan, serta membuka ruang diskresi hakim yang tidak diatur secara tegas dalam UU KPKPU. Implikasi penggunaan asas *going concern* sebagai alasan yuridis tanpa parameter objektif menimbulkan ketidakefektifan dan ketidakpastian hukum dalam proses PKPU.

Penulis melihat bahwa diperlukan reformulasi regulasi, baik dengan melakukan revisi UU KPKPU maupun melalui peraturan pelaksana lainnya guna menjamin perlindungan hukum yang seimbang antara kepentingan kreditor dan debitor serta menjamin efektivitas dan konsistensi proses PKPU.

Kata Kunci : *PKPU, kreditor terafiliasi, going concern, kepastian hukum, disparitas putusan.*

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