UNIVERSITAS GADJAH MADA
REVIEW OF LEGAL CIRCUMSTANCES IN SIMPLE PROOFING PROCESS AS A REQUIREMENT FOR BEING DECLARED
BANKRUPT IN ARTICLE 8 PARAGRAPH (4) OF LAW NUMBER 37 OF 2004
Rachel Monica, Irna Nurhayati, S.H., M.Hum., LL.M., Ph.D
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Review Of Legal Circumstances In Simple Proofing Process As A Requirement For Being Declared Bankrupt In Article 8 Paragraph (4) Of Law Number 37 Of 2004

by Rachel Monica[1] and and Irna Nurhayati[2]

ABSTRACT

This legal research examines how the interpretation of simple proof under Article 8(4) of Law No. 37 of 2004 on Bankruptcy and PKPU has been judicially construed in Indonesia. The study finds discrepancies of courts interpretation in simple proofing process due to lack of operational definition of simple proof.

This research utilized empirical-normative combining case-based and statutory analysis, the research identifies key factors behind these inconsistencies: excessive judicial discretion, absence of clear benchmarks, jurisdictional overlap, and conflicting directives between SEMA No. 3/2023 and Decree No. 109/KMA/SK/IV/2020.

Research findings show lack of uniformity in judicial consideration especially in differential amount of debts, thereby weakens the predictability of bankruptcy petition. To address this issues, two concrete steps are needed: the Supreme Court ensuring consistent implementation of Decree No. 109/KMA/SK/IV/2020 through a monitoring mechanism, transparent publication of decisions, and regular training for judges; and legislators revising Law No. 37 of 2004 by providing a clear definition of simple evidence, strictly defining the elements, and establishing an effective monitoring mechanism.

Keywords: Simple Proof, Bankruptcy Law, Legal Certainty, Judicial Inconsistency.

[1] Student of Faculty of Law Universitas Gadjah Mada (S1 IUP 2021)
[2] Lecturer at the Department of Business Law, Faculty of Law Universitas Gadjah Mada

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Tinjauan Peristiwa Hukum dalam Penerapan Pembuktian Sederhana Sebagai Persyaratan Pailit Berdasarkan Pasal 8 Ayat (4) Undang-Undang Nomor 37 Tahun 2004

Penulis:

Rachel Monica[1] and and Irna Nurhayati[2]

INTISARI

Penelitian hukum ini mengkaji bagaimana penafsiran pembuktian sederhana berdasarkan Pasal 8(4) Undang-Undang No. 37 Tahun 2004 tentang Kepailitan dan PKPU telah ditafsirkan secara yuridis di Indonesia. Penelitian ini menemukan adanya perbedaan penafsiran pengadilan dalam proses pembuktian sederhana akibat kurangnya definisi operasional pembuktian sederhana.

Penelitian ini menggunakan pendekatan empiris-normatif yang menggabungkan analisis kasus dan perundang-undangan. Penelitian ini mengidentifikasi faktor-faktor kunci di balik ketidakkonsistenan ini: diskresi hakim yang berlebihan, tidak adanya tolok ukur yang jelas, tumpang tindih yurisdiksi, dan arahan yang bertentangan antara SEMA No. 3/2023 dan Keputusan No. 109/KMA/SK/IV/2020.

Temuan penelitian menunjukkan kurangnya keseragaman dalam pertimbangan hukum, terutama dalam perbedaan jumlah utang, sehingga melemahkan prediktabilitas permohonan pailit. Untuk mengatasi masalah ini, diperlukan dua langkah konkrit: Mahkamah Agung memastikan implementasi Keputusan No. 109/KMA/SK/IV/2020 yang konsisten melalui mekanisme pemantauan, publikasi putusan yang transparan, dan pelatihan rutin bagi para hakim; dan legislator merevisi UU No. 37 Tahun 2004 dengan memberikan definisi yang jelas tentang alat bukti sederhana, mendefinisikan unsur-unsurnya secara tegas, dan membangun mekanisme pemantauan yang efektif.

***Kata Kunci**: Pembuktian Sederhana, Hukum Kepailitan, Kepastian Hukum, Inkonsistensi Yudisial.*

[1] Student of Faculty of Law Universitas Gadjah Mada (S1 IUP 2021)
[2] Lecturer at the Department of Business Law, Faculty of Law Universitas Gadjah Mada