

**PENYALAHGUNAAN PROSES KEPAILITAN DALAM PENGALIHAN  
ASET YANG BUKAN MILIK DEBITUR DALAM PERKARA KEPAILITAN  
NOMOR 05/PAILIT/2013/PN.NIAGA.SMG**

**Oleh:**

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**INTISARI**

Penelitian ini dilakukan dengan tujuan: 1. Untuk menganalisis bentuk penyalahgunaan proses kepailitan dalam pengalihan aset yang bukan milik debitur dalam perkara kepailitan nomor 05/pailit/2013/PN.Niaga.SMG. 2. Untuk menganalisis faktor-faktor yuridis yang menyebabkan terjadinya penyalahgunaan proses kepailitan dalam pengalihan aset yang bukan milik debitur. 3. Untuk menganalisis upaya yang dapat dilakukan untuk mencegah penyalahgunaan proses kepailitan dalam pengalihan aset yang bukan milik debitur.

Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan konseptual dan kasus. Data penelitian diperoleh dari sumber sekunder berupa peraturan perundang-undangan, doktrin, serta putusan pengadilan yang relevan. Analisis dilakukan melalui kajian mendalam terhadap aturan hukum yang berlaku, teori hukum yang berkembang, serta praktik yudisial dalam kasus kepailitan, sehingga dapat ditemukan gambaran komprehensif mengenai penyalahgunaan proses kepailitan dan alternatif solusi perbaikannya.

Hasil penelitian menunjukkan penyalahgunaan prosedur kepailitan akibat lemahnya verifikasi aset oleh kurator dan minimnya pengawasan hakim pengawas, sehingga aset pihak ketiga tetap dimasukkan ke dalam boedel pailit dan dilelang meskipun sudah ada putusan inkraht. Putusan Nomor 05/Pailit/2013/PN.Niaga.Smg menegaskan kurator dan hakim lebih menekankan formalitas prosedural tanpa mempertimbangkan hak substantif pihak ketiga, membuka peluang perampasan aset secara melawan hukum. Sistem kepailitan Indonesia memiliki celah hukum signifikan, termasuk mekanisme keberatan pihak ketiga yang lemah dan kurangnya sanksi tegas. Upaya reformasi prosedural dan struktural, penguatan peran kurator dan hakim pengawas, serta integrasi sistem informasi antar-lembaga menjadi langkah penting menegakkan keadilan dan perlindungan hak pihak ketiga.

**Kata kunci:** Kepailitan, Penyalahgunaan Proses, Pengalihan Aset.

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***ABUSE OF BANKRUPTCY PROCEEDINGS IN THE TRANSFER OF NON-  
DEBTOR ASSETS IN BANKRUPTCY CASE NUMBER  
05/PAILIT/2013/PN.NIAGA.SMG***

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***ABSTRACT***

*This research was conducted with the following objectives: (1) to analyze the form of abuse of bankruptcy proceedings in the transfer of assets that do not belong to the debtor in Bankruptcy Case Number 05/Pailit/2013/PN.Niaga.Smg; (2) to analyze the juridical factors that cause the abuse of bankruptcy proceedings in the transfer of non-debtor assets; and (3) to analyze the efforts that can be taken to prevent such abuse in the future.*

*The research method employed is normative legal research with a conceptual and case approach. The data were obtained from secondary sources, including laws and regulations, legal doctrines, and relevant court decisions. The analysis was carried out through an in-depth study of the applicable legal rules, developing legal theories, and judicial practices in bankruptcy cases, thereby providing a comprehensive overview of the abuse of bankruptcy proceedings and alternative solutions for improvement.*

*The research findings indicate abuse of bankruptcy procedures due to weak asset verification by trustees and minimal oversight by supervisory judges, resulting in third-party assets being included in the bankruptcy estate and auctioned despite an existing final and binding court decision (inkracht). Case No. 05/Pailit/2013/PN.Niaga.Smg shows that trustees and judges emphasized procedural formalities over the substantive rights of third parties, creating opportunities for unlawful asset seizure. Indonesia's bankruptcy system has significant legal gaps, including weak third-party objection mechanisms and a lack of strict sanctions. Efforts in procedural and structural reform, strengthening the roles of trustees and supervisory judges, and integrating inter-agency information systems are essential to uphold justice and protect third-party rights.*

***Keywords:*** *Bankruptcy, Abuse of Process, Asset Transfer.*

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