

IMPLIKASI HUKUM PUTUSAN NOMOR 300/PDT.SUS- PKPU/2023/PN.NIAGA.JKT.PST *JUNCTO* NO. 664K/PDT.SUS- PAILIT/2024 TERHADAP KEDUDUKAN DEBITOR DALAM PERSPEKTIF KEPASTIAN HUKUM DAN KEADILAN

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INTISARI

Penelitian bertujuan, pertama untuk mengetahui serta menganalisis implikasi hukum dari Putusan Nomor 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst *juncto* Putusan Nomor 664K/Pdt.Sus-Pailit/2024 terhadap kedudukan debitor, kreditor, dan kurator/pengurus dalam proses hukum kepailitan di Indonesia. Kedua, untuk mengetahui serta menganalisis pengembalian kedudukan hukum debitor dari status Pailit menjadi PKPU dalam putusan kasasi tersebut mencerminkan asas kepastian hukum yang berkeadilan.

Penelitian ini menggunakan metode penelitian yuridis normatif disertai sumber data yang terdiri atas data primer serta sekunder. Data Primer berupa Putusan Nomor 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst *juncto* Putusan Nomor 664K/Pdt.Sus-Pailit/2024 dan wawancara narasumber, sedangkan data sekunder didapat dengan melangsungkan studi kepustakaan. Metode pendekatan persoalan yang dipakai yakni pendekatan peraturan perundang-undangan (*statute approach*). Analisa data memakai metode logika hukum secara deduktif untuk memperoleh jawaban atas isu hukum yang diangkat.

Hasil penelitian dan pembahasan menunjukkan bahwasanya perubahan status debitor dari pailit kembali ke PKPU menimbulkan ketidakpastian terhadap kedudukan debitor, kreditor, dan kurator, termasuk status rencana perdamaian yang gagal, keabsahan tindakan kurator selama masa pailit, serta perlindungan kreditor terhadap penundaan pemenuhan piutang. Di sisi lain, orientasi penyelamatan usaha melalui asas going concern memperkuat posisi debitor namun membuka potensi moral hazard melalui PKPU berulang dan *delay tactics*.

Penelitian ini menyimpulkan perlunya rekonstruksi batas diskresi hakim, pembentukan parameter objektif kelayakan usaha (*viability test*) dalam pemberian dan perpanjangan PKPU, pengaturan tegas mengenai PKPU kedua dan konsekuensi pembatalan pailit, serta penguatan konsistensi yurisprudensi agar tercapai keseimbangan antara economic rescue dan legal certainty dalam sistem kepailitan Indonesia.

Kata Kunci: Penundaan Kewajiban Pembayaran Utang (PKPU), Kepailitan, Asas Keberlanjutan Usaha, Kepastian Hukum, ETWA Group, Kedudukan Debitor.

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**IMPLICATION CENTRAL JAKARTA COMMERCIAL COURT
DECISION 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.pSt JUNCTO No.
664K/Pdt.Sus-Pailit/2024 ON THE POSITION OF THE DEBTOR IN THE
PERSPECTIVE OF LEGAL CERTAINTY AND JUSTICE**

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ABSTRACT

The purpose of this study is, first, to determine and analyze the legal implications of Decision Number 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst juncto Decision Number 664K/Pdt.Sus-Pailit/2024 on the position of debtors, creditors, and curator/receiver and administrator in the bankruptcy legal process in Indonesia. Second, to identify and analyze whether the restoration of the debtor's legal position from bankruptcy to PKPU in the cassation decision reflects the principle of legal certainty and justice.

This study uses a normative juridical research method accompanied by data sources consisting of primary and secondary data. Primary data consists of Decision Number 300/Pdt.Sus-PKPU/2023/PN.Niaga.Jkt.Pst juncto Decision Number 664K/Pdt.Sus-Pailit/2024 and interviews with sources, while secondary data was obtained through a literature study. The method used to approach the issue is the statute approach. Data analysis uses deductive legal logic to obtain answers to the legal issues raised.

The results of the study show that changing the debtor's status from bankruptcy back to PKPU creates uncertainty regarding the position of the debtor, creditors, and curator, including the status of a failed settlement plan, the validity of the curator's actions during the bankruptcy period, and creditor protection against delays in debt repayment. On the other hand, the orientation of business rescue through the going concern principle strengthens the position of the debtor but opens up the potential for moral hazard through repeated PKPU and delay tactics.

This study concludes that there is a need to reconstruct the limits of judicial discretion, establish objective parameters for business viability (viability test) in the granting and extension of PKPU, set clear rules regarding second PKPU and the consequences of bankruptcy cancellation, and strengthen the consistency of jurisprudence in order to achieve a balance between economic rescue and legal certainty in the Indonesian bankruptcy system.

Keywords: *Suspension of Debt Payment Obligations (PKPU), Bankruptcy, Going Concern, Legal Certainty, ETWA Group, Debtor's Legal Position*

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