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PELINDUNGAN HUKUM TERHADAP KREDITOR PASCA HOMOLOGASI DAN DEBITOR PROSPEKTIF PASCA PEMBATALAN HOMOLOGASI DALAM PERSPEKTIF ASAS KELANGSUNGAN USAHA
Laurenz Stephanus Tampubolon, Prof. Dr. Tata Wijayanta, S.H., M.Hum
Universitas Gadjah Mada, 2026 | Diunduh dari http://etd.repository.ugm.ac.id/

PELINDUNGAN HUKUM TERHADAP KREDITOR PASCA HOMOLOGASI DAN DEBITOR PROSPEKTIF PASCA PEMBATALAN HOMOLOGASI DALAM PERSPEKTIF ASAS KELANGSUNGAN USAHA

Laurenz Stephanus Tampubolon[1] dan Tata Wijayanta[2]

INTISARI

Penelitian ini bertujuan untuk mengkaji dinamika pelindungan hukum terhadap kreditor pasca homologasi serta pelindungan hukum terhadap debitor prospektif pasca pembatalan homologasi dalam rezim Penundaan Kewajiban Pembayaran Utang (PKPU) berdasarkan asas kelangsungan usaha. Isu ini penting karena hubungan antara kreditor dan debitor mengalami perubahan mendasar setelah rencana perdamaian disahkan maupun setelah pembatalan perdamaian dijatuhkan oleh pengadilan. Di satu sisi, kreditor membutuhkan kepastian pembayaran sebagaimana ditetapkan dalam perdamaian; di sisi lain, debitor prospektif memerlukan ruang hukum untuk mempertahankan kelangsungan usahanya agar mampu memenuhi kewajibannya secara berkelanjutan.

Penelitian ini merupakan penelitian hukum normatif dengan menggunakan pendekatan perundang-undangan, konseptual, historis, dan kasus. Bahan hukum primer, sekunder, dan tersier dianalisis menggunakan metode preskriptif kualitatif melalui interpretasi sistematis, historis, dan teleologis. Putusan pengadilan mengenai pembatalan homologasi dijadikan pijakan untuk melihat implementasi norma dan implikasi praktis bagi para pihak.

Hasil penelitian menunjukkan bahwa pelindungan hukum terhadap kreditor pasca homologasi tercermin melalui keberlakuan perikatan baru, pembatasan tindakan penagihan individual, serta mekanisme pembatalan perdamaian sebagai sarana represif ketika debitor lalai memenuhi kewajiban. Sementara itu, pelindungan bagi debitor prospektif pasca pembatalan homologasi bersifat terbatas karena pembatalan mengakibatkan debitor berada dalam posisi pailit, meskipun asas kelangsungan usaha tetap memiliki relevansi untuk menilai potensi pemulihan nilai *going concern*. Penelitian ini menyimpulkan bahwa keseimbangan pelindungan antara kreditor dan debitor memerlukan penguatan norma dan mekanisme implementasi agar tujuan restrukturisasi utang dan kelangsungan usaha dapat berjalan selaras.

Kata kunci: Pelindungan Kreditor; Debitor Prospektif; Homologasi; Pembatalan Homologasi; PKPU; Asas Kelangsungan Usaha.

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LEGAL PROTECTION FOR CREDITORS POST-HOMOLOGATION AND LEGAL PROTECTION FOR PROSPECTIVE DEBTORS POST-CANCELLATION OF HOMOLOGATION FROM THE PERSPECTIVE OF THE PRINCIPLE OF GOING CONCERN

Laurenz Stephanus Tampubolon [3] and Tata Wijayanta[4]

ABSTRACT

This research examines the dynamics of legal protection for creditors after the homologation of a composition plan, as well as the legal protection afforded to prospective debtors following the annulment of such homologation within Indonesia's suspension of debt payment (PKPU) regime. The issue is significant because the legal relationship between creditors and debtors changes substantially once the composition is sanctioned and when its annulment is granted by the court. Creditors require certainty regarding debt repayment as stipulated in the composition, whereas prospective debtors need adequate legal space to preserve their business continuity in order to fulfill their obligations sustainably.

This study employs a normative juridical method using statutory, conceptual, historical, and case approaches. Primary, secondary, and tertiary legal materials are analyzed through a prescriptive qualitative method applying systematic, historical, and teleological interpretation. Judicial decisions concerning the annulment of homologation are used to observe the application of legal norms and their implications for the parties involved.

The findings reveal that legal protection for creditors after homologation is reflected in the binding force of the new contractual obligation, the restriction of individual collection actions, and the availability of annulment proceedings as a remedial mechanism when the debtor fails to perform. Meanwhile, legal protection for prospective debtors after the annulment of homologation is significantly limited, as the annulment causes the debtor to fall into bankruptcy, even though the going-concern principle remains relevant to assess the potential preservation of economic value. The study concludes that achieving a balanced protection for both creditors and debtors requires strengthening normative frameworks and implementation mechanisms to ensure that debt restructuring and business continuity objectives can operate harmoniously.

Keywords: Creditor Protection; Prospective Debtor; Homologation; Annulment of Homologation; PKPU; Going Concern Principle.

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