

TINJAUAN YURIDIS PEMBAYARAN ATAU JAMINAN PEMBAYARAN ATAS IMBALAN JASA DAN BIAYA PENGURUSAN SEBAGAI SYARAT PENGESAHAN PERDAMAIAN DALAM PENUNDAAN KEWAJIBAN PEMBAYARAN UTANG (PKPU) (ANALISIS PUTUSAN PENGADILAN NIAGA JAKARTA PUSAT NOMOR 40/PDT.SUS/PKPU/2013/PN.NIAGA.JKT.PST)

INTISARI

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Tujuan penelitian ini adalah menganalisis dan mengetahui mengapa pembayaran atau jaminan pembayaran atas imbalan jasa dan biaya pengurusan harus dipenuhi oleh debitor PKPU sebelum homologasi serta apakah undang-undang telah melindungi pengurus yang tidak mendapat pembayaran atau jaminan pembayaran atas imbalan jasa dan biaya pengurusan namun Perjanjian Perdamaian telah di homologasi.

Penelitian ini merupakan penelitian yuridis-normatif berdasarkan pada penelitian kepustakaan guna memperoleh data sekunder. Data yang diperoleh dari asas-asas hukum, peraturan-peraturan, putusan-putusan pengadilan dan buku-buku yang dianalisis dengan menggunakan metode kualitatif.

Hasil penelitian menunjukkan bahwa UUK telah cukup memberikan perlindungan hukum kepada Pengurus dalam hal pembayaran imbalan jasa Pengurus dan biaya kepengurusan dalam perkara PKPU. Hal ini terbukti dari adanya ketentuan Pasal 285 ayat (2) huruf d UUK. Hanya dalam praktik di Pengadilan, Hakim Niaga seringkali tidak konsisten menerapkan ketentuan Pasal 285 ayat (2) huruf d tersebut. Dalam beberapa perkara PKPU yang diteliti Penulis, Hakim Niaga mengesahkan Perjanjian Perdamaian walaupun dalam keadaan imbalan jasa Pengurus dan biaya kepengurusan belum dibayar atau belum diberikan jaminan pembayarannya oleh Debitor.

Kesimpulan penelitian ini bahwa Pembayaran atau jaminan pembayaran atas imbalan jasa dan biaya pengurusan harus dipenuhi oleh debitor PKPU sebelum perjanjian perdamaian disahkan (Homologasi) karena merupakan salah satu persyaratan imperatif yang harus dipenuhi oleh Debitor agar Perdamaian dapat disahkan oleh Pengadilan Niaga. Ketentuan Pasal 285 ayat (2) huruf d UUK menyatakan bahwa apabila imbalan jasa dan biaya yang dikeluarkan oleh ahli dan Pengurus belum dibayar atau tidak diberikan jaminan untuk pembayarannya maka Pengadilan wajib menolak untuk mengesahkan Perdamaian. Oleh karena itu pembayaran atau jaminan pembayaran imbalan jasa Pengurus dan biaya pengurusan harus dilaksanakan terlebih dahulu oleh Debitor sebelum Perdamaian dapat disahkan.

Kata Kunci: PKPU, Imbalan Jasa Pengurus PKPU, Homologasi

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**JURIDICAL REVIEW ON PAYMENT OR PAYMENT GUARANTEE FOR ADMINISTRATOR FEE AND ADMINISTRATION COSTS AS THE REQUIREMENT OF SETTLEMENT AGREEMENT IN SUSPENSION OF DEBT PAYMENT OBLIGATION (PKPU)
(ANALYSIS ON THE DECISION OF COMMERCIAL COURT OF CENTRAL JAKARTA
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ABSTRACT

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This study aims to analyze and find out why the payment or payment guarantee for administrator fee and administration costs have to be met by PKPU debtors before homologation and whether the law has protected the administrator who have not received payment or payment bond for compensation and administration fees even though the Settlement Agreement has been homologated.

This study was a juridical-normative study based on library study to obtain secondary data. Data were obtained from legal principles, regulations, court decisions and books that were analyzed using qualitative methods.

The study results showed that the Bankruptcy Law has sufficiently provided legal protection to the administrator in terms of payment of compensation for the administrator and administration fee in the PKPU case. This is evident from the provision of Article 285 paragraph (2) letter d of Bankruptcy Law. However, on practice in the Court, Commercial Judges often do not consistently apply the provisions of Article 285 paragraph (2) letter d. In a number of PKPU cases studied by the Author, the Commercial Judge approved the Settlement Agreement even though in the case of compensation and administration fees had not been paid or the Debtor had not paid the payment bond.

The conclusion of this study was that the payment or payment guarantee for administrator fee and administration costs had to be met by PKPU debtors before the Settlement Agreement was approved (Homologation) because it is one of the imperative requirements that must be met by the Debtor so that the Settlement can be approved by the Commercial Court. The provision of Article 285 paragraph (2) letter d of Bankruptcy Law states that if compensation and court procession fee incurred by the experts and Administrator have not been paid or are not bond for the payment, the Court must refuse to approve the Settlement. Therefore, the payment or payment guarantee for administrator fee and administration costs must be carried out first by the Debtor before the Settlement is approved.

Keywords: PKPU, Administration fees of PKPU, Homologation

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