

**STATUS HARTA DEBITOR PAILIT YANG DIRAMPAS TERKAIT DENGAN  
TINDAK PIDANA (STUDI PUTUSAN PENGADILAN NIAGA JAKARTA  
PUSAT NOMOR 06/PDT.SUS/PEMBATALAN PERDAMAIAN/2016/  
PN.NIAGA.JKT.PST JUNCTO PUTUSAN MAHKAMAH AGUNG  
NOMOR 173K/PID.SUS/2016)**

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**INTISARI**

Tujuan penelitian ini yaitu untuk mengetahui dan menganalisis (1) Status harta debitor pailit yang dirampas dalam kaitannya dengan tindak pidana, (2) Akibat hukum perampasan harta debitor pailit terhadap proses pengurusan dan pemberesan harta pailit oleh Kurator, dan (3) perlindungan hukum bagi kreditor dalam kepailitan terhadap harta debitor pailit yang dirampas dalam kaitannya dengan tindak pidana dalam perkara kepailitan Koperasi Cipaganti Karya Guna Persada.

Penelitian ini merupakan penelitian normatif-empiris. Penelitian normatif dilakukan dengan penelitian kepustakaan dengan menelusuri data sekunder berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier dengan metode dokumentasi dan alat berupa studi dokumen. Penelitian empiris dilakukan dengan penelitian lapangan dengan wawancara kepada subjek penelitian dan menggunakan alat berupa panduan wawancara. Analisis data menggunakan analisis kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa status harta debitor pailit yang dirampas dalam kaitannya dengan tindak pidana, yaitu harta debitor pailit statusnya menjadi barang rampasan. Akibat hukum perampasan harta debitor pailit terhadap proses pemberesan harta pailit oleh Kurator dalam penelitian ini adalah Tim Kurator tidak mempunyai kewenangan atas harta debitor pailit yang telah menjadi barang rampasan karena pihak yang berwenang adalah Jaksa. Perlindungan hukum bagi kreditor dalam kepailitan terhadap harta debitor pailit yang dirampas dalam kaitannya dengan tindak pidana dalam penelitian ini telah diberikan melalui putusan pengadilan, namun pelaksanaan putusan tersebut belum berjalan secara efektif sehingga kreditor belum mendapatkan haknya sama sekali.

Berdasarkan hasil dan pembahasan tersebut dapat disimpulkan bahwa (1) Status harta debitor pailit yang dirampas dalam kaitannya dengan tindak pidana adalah barang rampasan, (2) Akibat hukum perampasan terhadap harta debitor pailit adalah Tim Kurator kehilangan kewenangan untuk melakukan pengurusan dan pemberesan atas barang rampasan tersebut, dan (3) Perlindungan hukum terhadap kreditor melalui putusan pengadilan belum dilaksanakan secara maksimal oleh Jaksa dan Tim Kurator. Saran yang dapat diberikan, yaitu (1) Penyelesaian sengketa utang-piutang yang paling efektif melalui kepailitan, (2) Proses pidana yang berlangsung harus tetap mempertimbangkan proses perdata yang sedang berlangsung, dan (3) Jaksa diharapkan dapat bekerjasama dengan Tim Kurator dalam melakukan pembagian hasil lelang barang rampasan tersebut.

**Kata Kunci:** Harta Debitor Pailit, Perampasan, Tindak Pidana.

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**STATUS OF INSOLVENT DEBTOR'S FORFEITED ASSETS RELATED TO  
CRIMINAL ACT (A STUDY OF THE DECISION OF THE COMMERCIAL  
COURT OF CENTRAL JAKARTA NUMBER 06/PDT.SUS/PEMBATALAN  
PERDAMAIAN /2016/PN.NIAGA.JKT.PST IN CONJUNCTION WITH THE  
DECISION OF THE SUPREME COURT NUMBER 173K/PID.SUS/2016)**

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**ABSTRACT**

This research aims to identify and analyze (1) the status of insolvent debtor's forfeited assets in relation to criminal act, (2) the legal consequences of the forfeiture of debtor's assets for processing and settling insolvent assets by the Curator, and (3) legal protection for creditors in bankruptcy concerning insolvent debtor's forfeited assets in relation to criminal act in the bankruptcy case of Koperasi Cipaganti Karya Guna Persada.

This research is a normative-empirical research. A normative research is conducted through library research by tracing secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal materials using documentation method and a tool in the form of document studies. An empirical research is conducted through field research using interviews with research subjects and using tools in the form of interview guides. Data were analyzed using qualitative analysis.

The results of the research and discussion indicated that the status of insolvent debtor's forfeited assets in relation to criminal act was deemed forfeited items. The legal consequence of the forfeiture of the insolvent debtor's assets for the bankruptcy process by the Curator in this research was that the Curatorial Team did not have the authority over the insolvent debtor's assets that had become forfeited items because the authorized party was the Prosecutor. Legal protection for creditors in bankruptcy concerning the insolvent debtor's forfeited assets in relation to criminal act in this research had been given through a court decision, but the decision had not been implemented effectively so that creditors had not fully obtained their rights.

Based on the results and discussion, it can be concluded that (1) the status of the insolvent debtor's forfeited assets in relation to criminal act is forfeited items, (2) the legal consequence of the forfeiture of insolvent debtor's assets is that the Curatorial Team does not have the authority to process and settle the forfeited items, and (3) the legal protection for creditors through court decision has not been implemented effectively by the Prosecutor and the Curatorial Team. It is suggested that (1) the most effective settlement of debt disputes is through bankruptcy, (2) The ongoing criminal process must keep considering ongoing civil process, and (3) it is expected that prosecutors are able to cooperate with the Curatorial Team in distributing the auction results of the forfeited items.

**Keywords:** Bankruptcy, Forfeiture, Criminal Act

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