

PEMILIHAN DAN PENGANGKATAN KURATOR DALAM PENGURUSAN DAN PEMBERESAN HARTA PAILIT PADA PUTUSAN PAILIT DI PENGADILAN NIAGA PADA PENGADILAN NEGERI SEMARANG

INTISARI

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Tujuan penelitian ini adalah untuk, (1) Mengetahui dan menganalisis alasan yang mendasari debitor dan/atau kreditor lebih memilih Kurator dibandingkan Balai Harta Peninggalan untuk diusulkan kepada Majelis Hakim dalam perkara kepailitan di Pengadilan Niaga pada Pengadilan Negeri Semarang, (2) Mengetahui dan menganalisis pertimbangan Majelis Hakim mengangkat kurator yang berbeda dengan usulan para pihak dalam putusan pailit di Pengadilan Niaga pada Pengadilan Negeri Semarang.

Penelitian hukum ini merupakan penelitian hukum normatif empiris. Data yang digunakan dalam penelitian ini adalah data primer dan data sekunder. Data primer diperoleh melalui wawancara dengan alat pedoman wawancara, sedangkan data sekunder diperoleh melalui metode dokumentasi dengan alat studi dokumen, dan analisis data dilakukan secara kualitatif.

Hasil penelitian menunjukkan bahwa para pihak lebih memilih Kurator dibandingkan Balai Harta Peninggalan dikarenakan Kurator lebih cepat dan efektif dalam melakukan pengurusan dan pemberesan harta pailit, hal tersebut dikarenakan Kurator dianggap mempunyai pengetahuan dan *skill*, Kurator lebih mempunyai relasi atau jaringan yang luas dan baik, Kurator mempunyai kemampuan finansial yang memadai dibandingkan Balai Harta Peninggalan. Pertimbangan Majelis Hakim mengangkat kurator berbeda dari yang diusulkan para pihak dikarenakan kurator tersebut dianggap tidak memenuhi ketentuan Pasal 15 ayat (3) Undang Undang Republik Indonesia Nomor 37 Tahun 2004. Hal tersebut dikarenakan hingga batas waktu yang layak sebelum pembacaan putusan, para pihak tidak dapat melampirkan surat pernyataan dan kesediaan diangkat sebagai kurator sebagai bukti bahwa kurator tersebut telah memenuhi ketentuan Pasal 15 ayat (3) Undang Undang Republik Indonesia Nomor 37 Tahun 2004.

Kesimpulan penelitian, (1), Kurator lebih dipilih para pihak karena lebih cepat dan efektif dalam pengurusan dan pemberesan harta pailit dibandingkan Balai Harta Peninggalan, (2), Pertimbangan Majelis Hakim mengangkat kurator berbeda dengan usulan para pihak karena tidak memenuhi ketentuan Pasal 15 ayat (3) Undang Undang Republik Indonesia Nomor 37 Tahun 2004. Oleh karena itu, maka disarankan, (1) Balai Harta Peninggalan sebaiknya melakukan terobosan yang dapat membuat proses pengurusan dan pemberesan harta pailit berjalan dengan cepat dan efektif, melalui memperbaharui dan menambah pengetahuan dan *skill* Anggota Teknis Hukumnya, menambah relasi atau jaringan, serta menyediakan por anggaran khusus untuk mentalangi biaya kepailitan, (2) Majelis Hakim sebaiknya memasukkan pertimbangan pengangkatan kurator yang lengkap.

Kata Kunci: Pemilihan, Pengangkatan, kurator, Harta Pailit

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SELECTION AND APPOINTMENT OF CURATOR IN THE MANAGEMENT AND SETTLEMENT OF BANKRUPTCY ESTATE ON BANKRUPTCY DECISION IN THE COMMERCIAL COURT IN THE DISTRICT COURT OF SEMARANG

ABSTRACT

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This research is aimed (1) identifying and analyzing reasons underlying debtors and/or creditors prefer Curator to Estate Property Bureau to be proposed to the Panel of Judges in the case of bankruptcy in the Commercial Court in the District Court of Semarang, (2) identifying and analyzing considerations of the Panel of Judges to appoint curator different from that proposed by the parties in the bankruptcy decision in the Commercial Court in the District Court of Semarang.

This legal research is a normative-empirical legal research. It employed data consisting of primary data and secondary data. The primary data were obtained through interviews using interview guide, while the secondary data were obtained through documentation method using document study, and data were analyzed qualitatively.

The research results indicate that the parties preferred Curator to Estate Property Bureau because Curator was faster and more effective in managing and settling bankruptcy estate. Curator was considered to have knowledge and skill, have extensive and good relation or network, have more adequate financial capability than Estate Property Bureau. The consideration of the Panel of Judges appointing curator different from that proposed by the parties because the curator was deemed not to comply with Article 15 paragraph (3) of the Law of the Republic of Indonesia Number 37 of 2004. This is due to the deadline of reasonable time before the reading of the decision, the parties could not attach affidavit and willingness to be appointed as curator as evidence that the curator had to comply with Article 15 paragraph (3) of the Law of the Republic of Indonesia Number 37 of 2004.

This research concludes that (1) Curator was preferred by the parties because curator was faster and more effective in managing and settling bankruptcy estate than Estate Property Bureau, (2), Consideration of the Panel of Judges appointing curator from different that proposed by the parties because curator did not comply with the provisions of Article 15 paragraph (3) Law of the Republic of Indonesia Number 37 of 2004. Therefore, it is suggested that (1) Estate Property Bureau make a breakthrough that could make the process of management and settlement of bankruptcy estate fast and effective by updating and improving knowledge and skills of Legal Technical Members, expanding relation or networks, as well as providing a special budget to advance money to bankruptcy costs, (2) the Panel of Judges include the complete consideration of the appointment of the curator.

Keywords: Selection, Appointment, curator, Bankruptcy Estate

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