

Penerapan prinsip paritas creditorium serta prinsip structured prorata dalam pembagian harta pailit dan dampaknya terhadap pekerja/buruh perusahaan pailit : studi kasus Putusan Mahkamah Agung no. 049 PK/Pdt.Sus/2011 = Application of paritas creditorium principle and structured prorata principle on distribution of bankruptcy estate and its impact on workers/laborers rights at bankrupt company : case study Putusan Mahkamah Agung no. 049 PK/Pdt.Sus/2011

Hutapea, Fibi Desica, author

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Abstrak

ABSTRAK

Prinsip Paritas Creditorium serta Prinsip Structured Prorata merupakan prinsip yang mengklasifikasikan kreditur secara proporsional menurut kedudukannya dan umum digunakan dalam membagi harta pailit. Kedudukan hak pekerja/buruh kepailitan adalah sebagai kreditur preferen yang didahulukan oleh undang-undang atas barang-barang umum yang belum dijaminkan. Kedudukan hak pekerja/buruh ini sering bersengketa dengan kreditur separatis (kreditur pemegang hak jaminan) yang selalu diposisikan lebih tinggi kedudukannya dari pada hak pekerja/buruh. Pada kasus dalam Putusan Mahkamah Agung No.049 PK/Pdt.Sus/2011, sebagian dari hasil penjualan jaminan kebendaan PT. Bank Chinatrust Indonesia (PT.BCI) diambil untuk diberikan kepada pekerja/buruh PT.Fit-U Garment Industry (pailit). Pekerja/buruh melakukan permohonan peninjauan kembali agar didahulukan haknya diatas PT.BCI dengan landasan bahwa undang-undang telah meningkatkan kedudukan mereka diatas kreditur separatis. Akan tetapi permohonan tersebut ditolak oleh Hakim Pengadilan. Tidak dibenarkan pekerja/buruh mengambil bagian dari jaminan kebendaan karena hak pekerja/buruh hanya didahulukan atas barang umum (yang belum dijaminkan) dan kreditur separatis didahulukan atas barang khusus (yang dijaminkan).

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ABSTRACT

Principles of Paritas Creditorium and Structured Prorata are principle series for classifying creditor proportionally based on its position and commonly used for distributing bankruptcy estate. Right position of workers/laborers at Bankruptcy is preferred creditor which is prioritized by regulation for claiming non-collateral goods . This preferred creditors position is often disputed with separatist creditors (holder of collateral rights) position which is always positioned higher than workers/laborers rights. In the case of Supreme Court Verdic No.049 PK/Pdr.Sus/2011, part of proceeds of collateral material sale of PT. Bank Chinatrust Indonesia (PT.BCI) was taken and submitted to workers/laborers PT.Fit-U Garment Industry (bankrupt). The workers/laborers submmited a petition for reconsideration in order that as separatist creditor their rights are prioritized over PT.BCI. This petition is based on regulation which escalate their position over separatist creditors. However, this petition was rejected by the trial Judge. It is not justified that workers/laborers partake from collateral materials because their rights is only prioritize over general goods (non-cellateral) and separatist creditor is prioritized over special goods (collateral).