# Pengajuan kepailitan terhadap perusahaan yang solven = Bankruptcy petitions against solvent companies

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Abstrak

Salah satu paradigma hukum kepailitan adalah adanya nilai keadilan sehingga hukum dapat memberikan tujuan yang sebenarnya yaitu memberikan manfaat, kegunaan, dan kepastian hukum. Hasil penelitian menunjukkan bahwa, pertama, dalam hukum kepailitan di Indonesia tidak dikenal adanya Insolvency Test terhadap permohonan kepailitan Debitor sehingga besarannya aset tidak dipertimbangkan untuk menolak ataupun menerima permohonan kepailitan, maka perusahaan yang masih solven dapat dipailitkan. Selain itu, Indonesia tidak mengenal adanya pembatasan jumlah nominal utang untuk pengajuan pailit, sedangkan Amerika Serikat, Singapura, dan Hongkong telah diatur pembatasan jumlah nilai nominal utang di dalam pengajuan permohonan pailit sehingga dapat melindungi perusahaan yang masih solven dari kepailitan.. Kedua, dari ketiga kasus, yaitu PT Asuransi Jiwa Manulife Indonesia, PT Abdi Persada Nusantara, dan PT Telekomunikasi Seluler yang diputus pailit dapat dilihat melalui putusan Pengadilan Niaga bahwa perusahaan yang solven begitu mudahnya dinyatakan pailit berdasarkan ketentuan syarat pailit yang terdapat pada Undang-Undang Kepailitan.

Berdasarkan hasil penelitian di atas disarankan sebaiknya perancang peraturan perundang-undangan tentang kepailitan sebaiknya memasukkan Insolvency Test sebelum permohonan pailit diperiksa oleh Hakim dan Hakim dalam memutus perkara kepailitan sebaiknya memperhatikan fakta-fakta hukum dari kedua belah pihak, yaitu Pemohon Pailit dan Termohon Pailit agar putusan yang dihasilkan dapat memenuhi rasa keadilan bagi para pihak.
<hr>One of the bankruptcy legal paradigms is a sense of justice so a law is able to reach its true purpose, that is, providing a benefit, usefulness, and legal certainty. The result of the research showed that, firstly, in an Indonesian bankruptcy law is not known that there is an Insolvency Test towards debitor?s bankruptcy petition so the asset quantity is not considered to reject or to accept a bankruptcy petition; therefore companies which are still solvents can be stated bankrupt. In addition, Indonesia does not recognize any limit of the nominal total of debts for a bankruptcy petition, while in the USA, Singapore, and Hongkong the limit of the nominal total of the debts has been regulated in the bankruptcy petition so this can protect solvent companies from bankruptcy. Secondly, of the three cases, namely, PT Asuransi Jiwa Manulife Indonesia, PT Abdi Persada Nusantara, and PT Telekomunikasi Seluler which were verdicted bankrupt can be seen through the verdiction of the Trade Court that the solvent companies were so easily stated bankrupt based on the requirements of being bankrupt which exist in the Law of Bankruptcy).

Based on the research results above it is recommended that the lawmakers on bankruptcy should include the Insolvency Test before a bankruptcy petition is investigated by a judge, and the judge in verdicting a bankruptcy case should take into account of the legal facts of both parties, that is, the creditor as the party that states a company is bankrupt and the debitor as the party whose company needs to be stated bankrupt in

order that the verdiction made is able to fulfill a sense of justice among different parties.