

Perlindungan hak-hak pekerja dalam hal perusahaan dinyatakan pailit (studi kasus PT Omega Primawood (dalam pailit)) = Protection of employee s rights in the event of company s bankruptcy case study pt omega primawood in bankruptcy

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Abstrak

[ABSTRAK

Tesis ini membahas mengenai kajian perlindungan hukum terhadap hak-hak Pekerja dalam kepailitan sebagaimana diatur dalam UU Ketenagakerjaan dan UU Kepailitan serta menganalisis implementasi perlindungan hukum hak-hak Pekerja dalam kepailitan (studi kasus: PT Omega Primawood (Dalam Pailit)). Pokok permasalahan tesis ini adalah mengenai perlindungan hukum terhadap hak-hak Pekerja dalam kepailitan ditinjau dari UU Ketenagakerjaan dan UU Kepailitan dan implementasi perlindungan hukum terhadap hak-hak Pekerja dalam kepailitan (studi kasus: PT Omega Primawood (Dalam Pailit)). Metode penelitian yang digunakan adalah pendekatan yuridis normatif, sedangkan metode analisis datanya adalah metode kualitatif.

Pekerja merupakan bagian dari suatu perusahaan dan juga merupakan salah satu stakeholder/pemangku kepentingan dalam suatu perusahaan. Namun demikian, dalam hal terjadi kepailitan atas perusahaan tempat mereka bekerja, nasib Pekerja sering kali terabaikan. Perlindungan hukum terhadap hak-hak Pekerja dalam kepailitan perseroan adalah melindungi hak-hak dan kepentingan dari para Pekerja selaku stakeholder perseroan, harus memenuhi berbagai ketentuan di dalam peraturan perundang-undangan yang berlaku. Kedudukan Pekerja dalam hal kepailitan adalah sebagai Kreditor Preferen, dimana hak-haknya didahulukan.

Perlindungan hak Pekerja dalam kepailitan terdapat dalam Pasal 95 ayat 4 UU Ketenagakerjaan jo. Pasal 39 ayat (2) UU Kepailitan. Namun demikian, kedudukan Pekerja sebagai Kreditor Preferen dalam hal kepailitan tidak dapat diartikan sebagai hak yang lebih tinggi dari hak Kreditor Separatis. Sebab, pasal 1134 ayat (2) KUH Perdata juga telah secara tegas juga mengatur sebagai berikut; Gadai dan Hipotik adalah lebih tinggi daripada hak istimewa, kecuali dalam halhal dimana ditentukan oleh undang-undang sebaliknya. Artinya bahwa hak istimewa dari Pekerja adalah untuk mendapatkan pembayaran dari harta-harta Debitor Pailit yang belum dijamin. Diharapkan di masa yang akan datang, para pembuat undang-undang menerapkan kewajiban agar pemberi kerja (dalam hal ini adalah Perusahaan) untuk menyediakan suatu asuransi yang dapat melindungi hak-hak Pekerja dalam hal terjadinya kepailitan Perusahaan. Hal ini diperlukan mengingat adanya kemungkinan seluruh aset Perusahaan dijamin kepada Kreditor Separatis, dimana dalam hal demikian maka tidak ada lagi aset

yang dapat digunakan untuk melaksanakan pembayaran hak-hak Pekerja.

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ABSTRACT

This thesis describes the study of legal protection of employee's rights in bankruptcy as stipulated under the Labor Law and Bankruptcy Law as well as to analyze the implementation of the legal protection of employee's rights in bankruptcy (case study: PT Omega Primawood (In Bankruptcy)). Main issues of this thesis are the legal protection of employee's rights in bankruptcy based on Labor Law and Bankruptcy Law and the implementation of the legal protection of employee's rights in bankruptcy (case study: PT Omega Primawood (in Bankruptcy)). The thesis used juridical norms approach as research method and also qualitative data analysis as the analysis method.

Employees are part of a company as well as also one of the stakeholders in a company. However, in the event of bankruptcy of its company, the status of employees is often overlooked. Legal protection employees' rights in the company's bankruptcy is to protect the rights and interests of the employees as stakeholders of the company, which shall meet various provisions under the prevailing regulations. The position of workers in the event of bankruptcy is a Preferred Creditor, who has the right to receive preferential treatment among other creditors.

Protection of employees' rights in bankruptcy are regulated under Article 95 paragraph (4) Labor Law jo. Article 39 paragraph (2) Bankruptcy Law. However, the position of employees as Preferred Creditor in the event of bankruptcy cannot be interpreted as a higher rank than the right of Secured Creditor. Since Article 1134 paragraph (2) of the Indonesian Civil Code has strongly stated as follows; lien and mortgages are higher than the privilege, with the exception of the circumstances in which the law expressly stipulates otherwise. This means that the privileges of the employees is to obtain payment from the assets of Bankrupt Debtor which have not been secured. It is expected that in the future, the legislators to implement the obligations of the employer (in this case is the Company) to provide an insurance to protect the rights of employees in the event of bankruptcy of the Company. It is necessary since there will always a possibility that the entire assets of the Company were pledged to Secured Creditor, in such case there will be no asset which can be used to carry out the payment of employees' rights.; This thesis describes the study of legal protection of employee's rights in bankruptcy as stipulated under the Labor Law and Bankruptcy Law as well as to analyze the implementation of the legal protection of employee's rights in bankruptcy (case study: PT Omega Primawood (In Bankruptcy)). Main issues of this thesis are the legal protection of employee's rights in bankruptcy based on Labor Law and Bankruptcy Law and the implementation of the legal protection of employee's rights in bankruptcy (case study: PT Omega Primawood (in Bankruptcy)). The thesis used juridical norms approach as research method and

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