

Tinjauan hukum terhadap hak PT. Wijaya Karya (Persero) Tbk yang belum terpenuhi selaku kreditor pasca pembagian boedel pailit PT. UE Assa : studi kasus Putusan Mahkamah Agung Nomor 410 K/Pdt.Sus-Pailit/2013 = Legal overview of the rights of PT. Wijaya Karya (Persero) Tbk as remaining bankruptcy creditors post boedel division of PT. UE Assa : case study Supreme Court decision No 410 K/Pdt.Sus-Bankrupt/2013

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Abstrak

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Tesis dengan judul Tinjauan Hukum Terhadap Hak PT. Wijaya Karya (Persero)

Tbk yang Belum Terpenuhi Selaku Kreditor Pasca Pembagian Boedel Pailit PT. UE ASSA

(Studi Kasus Putusan Mahkamah Agung Nomor 410 k/Pdt.Sus-Pailit/2013) dilatar

belakangi oleh PT. Wijaya Karya yang mengajukan kasasi kepada Mahkamah Agung atas

putusan Pengadilan Niaga Surabaya Nomor 08/PLW.Pailit/2013/PN.Niaga Sby jo Nomor.

07/PKPU/2011/PN Sby tanggal 22 April 2013 karena PT. Wijaya Karya menganggap,

bahwa putusan Pengadilan Niaga Surabaya tersebut sangat tidak adil oleh karena dalam

putusan pailit PT. Wijaya Karya hanya menerima bagian 0,28% dari boedel pailit PT. UE

ASSA atau sebesar Rp. 2.149.802.062,47 dari seluruh piutang sebesar Rp.

112.835.211.143,00. Yang menjadi pokok permasalahan adalah: 1. Bagaimanakah

kedudukan tanggungjawab perusahaan beserta seluruh jajaran pengurus PT. UE ASSA

dalam melunasi seluruh hutangnya terhadap PT. Wijaya Karya ditinjau dari UU Perseroan

Terbatas dan UU Kepailitan? 2. Bagaimanakah upaya hukum yang dapat dilakukan oleh

PT. Wijaya Karya dalam memperoleh seluruh hak yang belum terpenuhi pasca putusan

MA Nomor. 410.K/Pdt-Sus.Pailit/2013? Dengan dinyatakan pailit, pengurusan harta

kekayaan PT. UE ASSA beralih kepada kurator. Kepailitan PT. UE ASSA pada prinsipnya

tidak mengakibatkan PT. UE ASSA kehilangan haknya untuk mengurus dan menguasai

harta kekayaannya dan tidak mengakibatkan terhentinya aktivitas PT. UE ASSA, oleh

karena dalam kepailitan PT. UE ASSA kewenangan Direksi beralih kepada kurator yang

kemudian dapat bertindak sebagai Direksi untuk mengelola PT. UE ASSA.

Pertanggungjawaban PT. UE ASSA merupakan pertanggungjawaban secara timbal balik,

sehingga yang dijatuhi putusan pailit adalah perseroannya dan bukan Direksi sepanjang

Direksi tidak bertindak melawan hukum. Ada beberapa Upaya hukum yang dapat

dilakukan untuk memperoleh seluruh haknya, yaitu PT. Wijaya Karya dapat melakukan

upaya: a. Melakukan upaya Peninjauan Kembali dan b. Melakukan upaya actio pauliana.

Bentuk penelitian tesis ini adalah yuridis normatif, dengan tipologi penelitian bersifat

deskriptif analitis, jenis data berupa data sekunder, alat pengumpulan data berupa studi

dokumen, sedangkan pengolahan dan analisis data berdasarkan pendekatan yuridis

normatif.

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ABSTRACT

Thesis with the title of the Legal Overview of the Rights PT. Wijaya Karya (Persero) Tbk As Remaining Bankruptcy Creditors Post Boedel division of PT. UE ASSA (Case Study Supreme Court Decision No. 410 k / Pdt.Sus - Bankrupt / 2013) against the background by PT. Wijaya Karya who has filed an appeal to the Supreme Court against the decision of Surabaya Commercial Court No. 08 / PLW.Pailit / 2013 / PN.Niaga SBY jo No. 07 / PKPU / 2011 / PN SBY April 22 of 2013 as PT. Wijaya Karya assume , that the Surabaya Commercial Court decision is very unfair because of the bankruptcy decision PT . Wijaya Karya only receive a portion of 0.28 % of boedel bankrupt PT. UE ASSA or Rp. 2149802062,47 of all receivables amounting to Rp . 112,835,211,143.00. The main issue are : 1. What is the status of the responsibilities of the company and the whole range of the board of PT.UE ASSA to repay the entire debt to PT . Wijaya Karya based on the Limited Liability Company Law and Bankruptcy Law? 2. What is the remedy which can be done by PT. Wijaya Karya in obtaining all the rights that have not been fulfilled after the Supreme Court decision number. 410.K / Pdt - Sus.Pailit / 2013 ? By declared bankrupt, the maintenance of the assets of PT. UE ASSA switch to the curator. PT. UE ASSA?s bankruptcyin principle does not result in PT. UE ASSA loses its right to administer and control of its assets and did not effect in the cessation of the activity of PT. UE ASSA, since in the bankruptcy of PT. UE ASSA authority of the Board of Directors switch to the curator who can then act as the Board of Directors to manage PT. UE ASSA. Responsibility PT. UE ASSA is a reciprocal responsibility, so the company sentenced for bankruptcy, not the Directors as long as the Directors did not act unlawfully. There are several legal remedies that can be done to obtain the rights, PT Wijaya Karya can: a. Conducting a Judicial Review and b. Conducting an actio pauliana. The form of this thesis research is normative juridical, with typology analytical descriptive study, the type of data in the form of secondary data, data collection tools such as the study of documents, while the processing and analysis of data based on a normative juridical approach.;Thesis with the title of the Legal Overview of the Rights PT. Wijaya Karya (Persero) Tbk

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