

Perlindungan hukum pihak ketiga akibat putusan pailit = law protection of third party due to insolvency verdict

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Abstrak

[Tesis ini bertujuan untuk melakukan analisa terhadap perlindungan hukum Pihak Ketiga akibat putusan pailit yang dalam Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, dimana hal tersebut dibahas salah satunya di penjelasan Pasal 3 ayat (1) UUKPKPU tentang “hal lain-lain”. Tesis ini menggunakan metode analisa terhadap gugatan Pihak Ketiga kepada Kurator dengan berbagai dasar gugatan, yang meliputi : Pertama (1) Pihak Ketiga dalam Kasus kepailitan PT Panca Wiratama Sakti Tbk (Dalam Pailit) mengenai sewa menyewa tanah. Kedua (2) Pihak Ketiga dalam Kasus kepailitan PT Mitra Safir Sejahtera (Dalam Pailit), mengenai sertifikat tanah. Ketiga (3), Pihak Ketiga dalam Kasus kepailitan PT Bendi Oetama Raya (Dalam Pailit), mengenai kepemilikan tanah yang telah dijaminkan Hak Tanggungan. Keempat (4), Pihak Ketiga dalam Kasus kepailitan PT Sinar Central Rejeki (Dalam Pailit), mengenai sebagian tanah dan bangunan. Kelima (5), Pihak Ketiga dalam Kasus kepailitan PT Surabaya Agung Industri Pulp & Kertas (Dalam Pailit), mengenai jual beli barang yang dilakukan oleh Debitor Pailit. Hasil penelitian diperoleh kesimpulan bahwa Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang ternyata belum mampu menyelesaikan permasalahan kepailitan karena masih ada pihak yang mengajukan gugatan atas harta pailit Debitor Pailit. Hak dan kewajiban Pihak Ketiga yang diatur diluar maupun didalam UUKPKPU belum cukup melindungi segala hak-haknya, terlebih dalam kasus kepailitan karena banyaknya dampak yang terjadi setelah Debitor dinyatakan pailit oleh Pengadilan Niaga. Hal ini tidak cukup menyelesaikan permasalahan mengenai adanya perikatan yang dilakukan Pihak Ketiga dan Debitor Pailit sehingga diperlukannya peraturan perundang-undangan yang mendukung Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang yang mana bertujuan untuk pemberesan harta pailit Debitor Pailit; This Research purpose is to analyze legal protection for Third Party as a consequence of insolvency verdict on Statute number 37 year 2004 on Indonesia Bankruptcy Law (“UUKPKPU”), whereas it was covered on explanation of clause 3 paragraph (1) regarding “Other matters”. This research use analyzing method on several Third Party lawsuit to the Curator with variety of basis for the lawsuit, that includes : First (1) Third Party Vs PT Panca Wiratama Sakti Tbk (Bankrupt) Bankruptcy case, regarding land lease. Second (2) Third Party Vs PT Mitra Safir Sejahtera (Bankrupt) Bankruptcy case, regarding land certificate. Third (3) Third Party Vs PT Bendi Oetama Raya (Bankrupt) Bankruptcy case, regarding land and building ownership that has being mortgage. Fourth (4) Third Party Vs PT Sinar Central Rejeki (Bankrupt) Bankruptcy case, regarding partial land and building ownership. Fifth (5), Third Party Vs PT Surabaya Agung Industri Pulp and Kertas (Bankrupt) Bankruptcy case, regarding commodity selling by Bankrupt Debtor. Result of the research shows that Statute No 37 year 2004 on Indonesia Bankruptcy Law still unable to solve the problem of bankruptcy, because there are parties that still filed lawsuit against bankruptcy assets of Bankrupt Debtors. Third Parties rights and obligation that set on Statute No 37 year 2004 on Indonesia Bankruptcy Law are not sufficient enough to protect their rights,

especially in the Bankruptcy case impact will be perceived after the debtor decided bankrupt by the commercial court. It is not enough solve the problems concerning of Third Party agreement with the Bankrupt Debtors and thus the need for legislation that supports Statute No 37 year 2004 on Indonesia Bankruptcy Law on settlement of bankruptcy assets Bankrupt Debtor.

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