

Asas kelangsungan usaha (going concern) perusahaan terminal peti kemas sebagai debitor pailit dalam perkara kepailitan putusan nomor 13/Pdt.Sus-Pailit/2017/PN.Jkt.Pst = Going concern principle of terminal container company as a bankrupt debtor in bankruptcy case verdict number 13 Pdt.Sus-Pailit/2017/PN.Jkt.Pst

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Abstrak

ABSTRACT

Asas kelangsungan usaha merupakan salah satu asas dalam Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang UUK- PKPU. Di dalam Penjelasan Umum UUK- PKPU, pengertian asas kelangsungan usaha adalah memungkinkan perusahaan debitor yang prospektif tetap dilangsungkan. Berdasarkan pengertian tersebut, asas kelangsungan usaha di Indonesia diberikan dalam konteks perusahaan yang telah dinyatakan pailit. Seharusnya penerapan asas kelangsungan usaha dimaknai secara lebih luas yang juga meliputi keseluruhan proses penjatuhan putusan pailit. Hal ini bertujuan agar hukum kepailitan tidak hanya semata- mata melindungi kepentingan kreditor untuk mendapatkan pembayaran atas piutangnya, tapi juga melindungi hak debitor terutama debitor yang masih solven. Oleh karena itu, penelitian ini membahas mengenai penerapan asas kelangsungan usaha di Indonesia berdasarkan Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang melalui perkara kepailitan dalam Putusan Nomor 13/Pdt.Sus-Pailit/2017/Pn.Jkt.Pst dan juga membahas mengenai penerapan asas kelangsungan usaha di Amerika Serikat berdasarkan United States Bankruptcy Reform Act of 1978.

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The principle of going concern is one of the principles in Law Number 37 of 2004 on Bankruptcy and Suspension of Obligation for Payment of Debts UUK PKPU. In the General of UUK PKPU, the definition of going concern principle is that enable a prospective company of the debtor to survive. Based on this definition, going concern principle in Indonesia is given in the context of companies that have been declared bankrupt. Supposedly the implementation of going concern principle is interpreted more broadly which also covers the whole process of bankruptcy ruling. It is intended that the law of bankruptcy is not merely to protect the interests of creditors to get payment of their receivables, but also to protect the right of debtor, especially the debtor who is still solvent. Therefore, this study discusses the implementation of the going concern principle in Indonesia based on Law Number 37 of 2004 on Bankruptcy and Suspension of Obligation for Payment of Debts through bankruptcy case Verdict Number 13 Pdt.Sus Pailit 2017 Pn.Jkt.Pst and also discuss about the implementation of going concern principle in United States based on United States Bankruptcy Reform Act of 1978.