

Kewenangan dan keabsahan tindakan kurator atas harta pailit yang diduga atau terbukti dari hasil tindak pidana studi kasus putusan Mahkamah Agung Nomor 202 PK/PDT.SUS/2012 putusan nomor 156 K/PDT.SUS/2015 = Authority and validity of curator actions to bankruptcy property that allegedly or provided from criminal offense case study from decision of supreme courts number 202 PK/PDT.SUS/2012 decision number 156 K/PDT.SUS/2015

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Abstrak

ABSTRAK

Tujuan hukum kepailitan adalah melakukan pemenuhan atas tagihan yang belum dibayarkan oleh debitur pailit. Demi mencapai tujuan tersebut, UUKPKPU memberikan kewenangan dan tugas kepada kurator, tugas kurator meliputi pengurusan dan pemberesan harta pailit. Namun, tugas serta kewenangan kurator tersebut tidak akan berjalan apabila berbenturan dengan kewenangan penyidik yang melakukan penyitaan atas barang milik debitur pailit yang menjadi harta pailit. Permasalahannya ialah ketika kurator akan melakukan pengurusan dan pemberesan terhadap harta pailit milik debitur, tetapi ternyata harta tersebut masuk dalam status sita oleh pihak kepolisian, apakah kurator memiliki kewenangan untuk melakukan tugasnya tersebut dan bagaimana keabsahan tindakan pemberesan harta pailit oleh kurator apabila dikemudian hari harta pailit terbukti berasal dari tindak pidana. Dalam menganalisis kedua masalah ini, penulis menggunakan metode penelitian yuridis normatif. Pada akhirnya penulis menyimpulkan, terkait dengan Putusan Mahkamah Agung Nomor 202 PK/Pdt.Sus/2012, kurator memiliki kewenangan secara menyeluruh untuk melakukan tugas pengurusan dan pemberesan harta pailit sedangkan pada Putusan Mahkamah Agung Nomor 156K/Pdt.Sus, tugas dan kewenangan kurator menjadi terhambat, bukan pada tugas pengurusannya tetapi pada tugas pemberesan karena harta pailit berada didalam sitaan pihak kepolisian. Mengenai keabsahan tindakan pemberesan kurator apabila dikemudian hari harta pailit terbukti berasal dari tindak pidana, tindakan pemberesan tersebut tetaplah sah sepanjang dilakukan berdasarkan UUKPKPU dan peraturan terkait lainnya.

ABSTRACT

The objective of the bankruptcy law is to fulfill the credit that has not been paid by the bankrupt debtor. In order to achieve these objectives, Bankruptcy Act provides authority and duties to the Receiver, the task of the Receiver includes the management and disposition of bankrupt properties. However, the duty and authority of the Receiver will not work if it collides with the authority of the investigator who seizes the property of a bankrupt Debtor who becomes a bankrupt property. The question is when the execution of the authority for the property Receiver of the bankrupt Debtor, which turns out that the goods entered in the confiscation status by the Police, whether the Receiver has the authority to make arrangements and liquidation of the bankrupt property of the Debtor and how the legitimacy of the act of securing bankruptcy by the Receiver if in the future a bankrupt property is proven to be derived from a crime. In analyzing both of these problems, the author used normative juridical research methods. In the end, the author concludes

that in relation to Supreme Court Decision Number 202 PK Pdt.Sus 2012, the Receiver still has the authority to perform the task of handling and ordering of bankrupt property while in Supreme Court Decision Number 156 K Pdt.Sus, the Receiver's authority and duty becomes impeded, not on the task of handling it but rather to the duties of liquidation because the bankruptcy is in the confiscation of the police. Regarding the validity of the Receiver's remedial action if in the future the bankrupt property is proven from a criminal act, such remedy is still valid as long as it is done based on Bankruptcy Act and prevailing regulations.