

Kedudukan Sita Umum Pailit Terhadap Sita Pidana Dalam Proses Pemberesan Harta Pailit (Studi Kasus Putusan Nomor 11/Pdt.Sus-Gugatan Lain-lain/2018/PN.Jkt.Ps dan Putusan Nomor 3 K/Pdt.Sus-Pailit/2019) = The Position of General Bankruptcy Confiscation Against Criminal Confiscation In The Process of Bankruptcy Assets Settlement (Case Study of Court Decision Number 11/Pdt.Sus-Gugatan Lain-lain/2018/PN.Jkt.Pst and Court Decision Number 3 K/Pdt.Sus-Pailit/2019)

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Abstrak

Dalam praktik kepailitan, pelaksanaan pemberesan harta pailit seringkali terhambat oleh berbagai kendala, salah satunya ketika terjadi tumpang tindih antara sita umum pailit dengan sita pidana. Penelitian ini dilakukan untuk mengetahui bagaimana proses pemberesan harta pailit dalam hal terjadi sita pidana terhadap harta pailit dengan mengkaji kedudukan sita umum pailit terhadap sita pidana, serta mengetahui pula kedudukan harta pailit terhadap putusan pengadilan dalam perkara pidana dengan menganalisis putusan pengadilan dalam perkara gugatan lain-lain. Penelitian ini menggunakan bentuk penelitian yuridis normatif dengan metode studi kepustakaan. Dari hasil penelitian ini, dapat diketahui bahwa kedudukan sita pidana lebih didahulukan daripada sita umum pailit, sehingga proses pemberesan harta pailit harus ditunda untuk sementara waktu. Berdasarkan analisis terhadap Putusan Pengadilan Niaga Pada Pengadilan Negeri Jakarta Pusat Nomor 11/Pdt.Sus-Gugatan Lain-Lain/2018/PN.Jkt.Pst dan Putusan Mahkamah Agung Nomor 3 K/Pdt.Sus-Pailit/2019, kedudukan harta pailit didahulukan dibanding putusan pengadilan dalam perkara pidana, sehingga amar putusan yang menetapkan perampasan harta pailit untuk negara bersifat non-executable.

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In the practice of bankruptcy, the implementation of bankruptcy assets settlement is often hampered by various obstacles, one of which is when there is an overlap between the general bankruptcy confiscation and the criminal confiscation. This research was conducted to determine how the process of bankruptcy assets settlement in the event of criminal confiscation towards the bankruptcy assets by examining the position of general bankruptcy confiscation against criminal confiscations, also to determine the position of bankruptcy assets against court decisions in criminal cases by analyzing court decisions. This type of research is normative legal research with a literature study method. The result of the research shows that the position of criminal confiscation takes precedence over general bankruptcy confiscation, therefore the settlement of bankruptcy assets must be temporarily postponed. Based on the analysis of the Court Decision Number 11/Pdt.Sus-Gugatan Lain-lain/2018/PN.Jkt.Pst and Court Decision Number 3 K/Pdt.Sus-Pailit/2019, the position of bankruptcy assets takes precedence towards court decisions in criminal cases. Thus, the verdict in criminal cases that stipulates the forfeiture of bankruptcy assets for the government is non-executable