

Akibat dan Upaya Hukum Atas Putusan Penundaan Kewajiban Pembayaran Utang (PKPU) Perusahaan Asuransi yang Dikabulkan tanpa Diajukan oleh Otoritas Jasa Keuangan (OJK) = Legal Implication and Legal Actions on the Court Decision Regarding Suspension of Payment Against Insurance Company which was Granted without Being Applied by the Indonesian Financial Services Authority

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Abstrak

Pandemi Covid-19 yang terjadi di Indonesia pada tahun 2020 telah memberi dampak terhadap perekonomian nasional, sehingga menimbulkan kesulitan kepada pelaku usaha untuk menyelesaikan kewajibannya. Di sektor Peransuransian terdapat beberapa pelaku usaha Perasuransian yang sulit untuk membayar klaim atas polis yang sudah menjadi kewajibannya kepada para nasabah. Salah satunya ialah PT. Asuransi Jiwa Kresna. Hal mana membuat para nasabah asuransi tersebut mendesak dengan berbagai cara agar klaim atas polis didapatkan. Salah satu caranya dengan mengajukan permohonan Penundaan Kewajiban Pembayaran Utang (PKPU) kepada Pengadilan Niaga. Hal mana yang diketahui bahwa untuk dapat mengajukan permohonan PKPU terhadap perusahaan asuransi harus diajukan oleh OJK sebagai Lembaga yang berwenang. Permasalahannya terdapat di dalam Putusan PKPU Nomor 389/Pdt Sus-PKPU/2020/PN.Niaga.Jkt.Pst. Majelis Hakim Pengadilan Niaga mengabulkan permohonan PKPU yang diajukan oleh Pemohon PKPU Lukman Wibowo terhadap Termohon PKPU PT. Asuransi Jiwa Kresna. Hal ini menjadi perdebatan di kalangan masyarakat khususnya praktisi hukum yang mempertanyakan bagaimana suatu permohonan PKPU terhadap perusahaan asuransi dapat dikabulkan tanpa diajukan oleh OJK. Ketentuan Peraturan Perundang-undang mengatur secara tegas dan jelas bahwa hanya OJK yang dapat mengajukan permohonan PKPU terhadap perusahaan asuransi. Kekeliruan Hakim dalam menerapkan hukum tersebut sangatlah berdampak mengingat tidak adanya upaya hukum apapun terhadap Putusan PKPU. Meskipun Putusan PKPU bersifat final, terdapat beberapa cara yang dapat dilakukan oleh pihak-pihak yang merasa dirugikan atas Putusan tersebut antara lain; Debitur dapat mengajukan permohonan untuk mencabut proses PKPU berdasarkan Pasal 259 ayat (1) UU Kepailitan dan PKPU, ataupun melakukan uji materil kepada Mahkamah Konstitusi.

.....The Covid-19 pandemic which occurred in Indonesia in 2020 has affected the national economy, causing the difficulties for business actors in completing their obligations. In insurance sector, there were several insurance business actors that faced difficulties in paying the claims on policy that have become their obligations towards the consumer. One of them was PT. Asuransi Jiwa Kresna which its consumers have urged in various ways to get the claim payment on their insurance policy. As a form of effort, one of its consumers has filed for the Suspension of Payment (PKPU) application to the Commercial Court. It should be noted that any PKPU application against an insurance company shall be filed by the OJK as the authorized institution. The problem arose in the PKPU Decision No 389/Pdt Sus-PKPU/2020/PN.Niaga.Jkt.Pst. in which the Judges of the Commercial Court granted the PKPU application filed by Lukman Wibowo against PT. Asuransi Jiwa Krisna. This decision became a subject of debate particularly among legal practitioners who have questioned how such PKPU application against an

insurance company could be granted without it being filed by the OJK. The prevailing laws and regulations clearly and firmly stipulated that only the OJK who shall be authorized in filing for PKPU application against an insurance company. This Judges' discretion in applying such law was greatly impactful considering there was not any further legal actions taken towards such PKPU Decision. Despite of the final and binding nature of such PKPU Decision, actually there are several ways which could have been taken by the affected Parties, i.e. the Debtor may submit an application to revoke such PKPU process based on Article 259 (1) of the Bankruptcy and PKPU Law, or by requesting for a judicial review to the Constitutional Court.