



Legal Protection of Third-Party Assets in Bankruptcy Disputes in Indonesia

Ridwan Bakar

Magister Hukum, Fakultas Hukum, Universitas Pancasila, Jakarta, Indonesia

Abstract: Bankruptcy in Indonesia often leads to legal issues related to the protection of third-party assets, especially when these assets are improperly included in the bankruptcy estate. This research aims to analyze the legal protection of third-party assets in bankruptcy disputes based on Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, as well as the Civil Code. The research method used is normative juridical with a doctrinal approach, which examines legal norms through literature study and analysis of court decisions. The research results show that the Supreme Court consistently protects the legitimate property rights of third parties, excluding those assets from the bankruptcy estate unless there is strong evidence of their connection to the debtor's debts. This research reinforces the importance of careful verification by curators and the role of the courts in upholding justice and legal certainty in bankruptcy proceedings.

Keywords: Third Party, Bankruptcy, Insolvent Estate.

1. Introduction

Bankruptcy is a legal condition in which a debtor, who is unable to fulfill his obligations to creditors, is declared bankrupt by the court. In Indonesian law, bankruptcy is regulated by Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (UUK-PKPU). This law is designed to regulate the debt settlement process that involves the distribution of debtor assets to creditors. However, in practice, this process not only impacts the debtor and creditors but can also affect third parties who have a legal or civil relationship with the debtor. A third party, in the context of bankruptcy, is an individual or entity that is not directly involved in the debt-receivables relationship between the debtor and the creditor but has an interest in certain assets that may be involved in a bankruptcy dispute. These third-party assets can be in the form of goods or rights that are in the debtor's possession when the bankruptcy judgment is issued, even though they are not legally included in the debtor's ownership. When a bankruptcy dispute arises, the question that often arises is whether the assets of such third parties can be considered as part of the bankruptcy boedel and how the legal protection of the rights of such third parties is regulated in the Indonesian legal system (Munah & Deni, 2024).

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations provides general guidance regarding assets that can be included in the bankruptcy boedel, namely all the debtor's assets that exist at the time the bankruptcy judgment is pronounced and everything obtained during the bankruptcy period. However, in the context of third-party asset protection, this law does not provide a detailed explanation. This creates potential legal uncertainty, especially when there is a dispute involving assets claimed by a third party. One of the important aspects of legal protection of third-party assets is the basic principles in civil law that govern the ownership and control of goods (Arya Dharma & Dintara Lubis, 2024). Based on Article 584 of the Civil Code (KUH Perbaik), ownership of movable or immovable goods is obtained through inheritance, agreement, handover, or length of time in control. In the context of bankruptcy, if the assets of a third party are legally in the control of the debtor but the ownership does not transfer, then the assets cannot legally be included in the bankruptcy bodele. However, because the debtor still controls the asset at the time the bankruptcy

Correspondence:

Namme: Ridwan Bakar

Email: bakarridwan@gmail.com

Received: Oct 01, 2024;

Revised: Oct 10 2024;

Accepted: Oct 23, 2024;

Published: Oct 30, 2024;



Copyright: © 20xx by the authors.

Submitted for possible open access publication under the terms and conditions of the Creative Commons

Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0) license (

<https://creativecommons.org/licenses/by-nc/4.0/>).

judgment is issued, there are often misunderstandings or disputes regarding the status of the asset.

The legal protection provided by Law Number 37 of 2004 is more directed to the interests of creditors to get their debt repayment. However, a third party that feels aggrieved can file a lawsuit in court to exclude their assets from the bankruptcy boedel, on the basis that the assets do not belong to the bankrupt debtor. The filing of this lawsuit is usually done through a debt verification mechanism where the third party must prove that the assets belong to them and are not related to the debtor's obligations to creditors (Astuti, 2024). The court has an important role in this process, as the judge's decision will determine whether the third-party assets can be put into bankruptcy or not. The legal implications of incorporating third-party assets into a bankruptcy boedel are significant. When the court decides to put a third party's assets in a bankruptcy boedel, the third party can lose its ownership of the assets. This can happen in situations where a third party cannot legally prove ownership or when the asset is recognized as part of the debtor's debt to be repaid. Such decisions often lead to further disputes between third parties and curators or creditors, leading to lengthy and complex legal proceedings. In addition, legal uncertainty in the protection of third-party assets can create a sense of injustice and reduce public trust in the bankruptcy legal system in Indonesia.

Case studies on third-party asset disputes in bankruptcy in Indonesia show that law enforcement related to the protection of third-party assets still faces many challenges (Christina, 2021). For example, in some cases, courts are inconsistent in determining the status of third-party assets, especially when there is a discrepancy between the ownership documents and the physical possession of the assets (Marpi & Dewi, 2023). In this case, the court must conduct an in-depth legal interpretation of the existing regulations and consider the evidence submitted by third parties. Court decisions in these cases are often precedents used as a reference in resolving similar disputes in the future. The court acts as a guardian of justice in bankruptcy disputes, especially in deciding whether an asset belonging to a third party can be put into bankruptcy (Nasution, 2019). Judges must consider a variety of factors in making a decision, including the legal relationship between the third party and the debtor, proof of ownership, and the impact of the decision on the rights of the third party. In some cases, courts decide to exclude third-party assets from bankruptcy boedels if it is proven that they are indeed not related to the debtor's debt or if the third party can prove rightful ownership (Nugraha et al., 2023). However, in other cases, the court may decide that the assets should be seized as part of a debt settlement effort, especially if there is evidence to show that the assets have been secured or directly related to the debtor's debt.

In carrying out its role, the court must balance between the interests of creditors and the protection of the rights of third parties (Sihombing et al., 2024). Law Number 37 of 2004 gives the court the authority to determine whether certain assets can be put into bankruptcy, but at the same time, the court also has the responsibility to ensure that the decision taken does not harm the third party that should be protected (Lie et al., 2020). Therefore, it is important for the courts to pay attention to the principles of fairness and legal certainty in deciding disputes involving third-party assets. This study aims to examine in depth the legal protection of third-party assets in bankruptcy disputes in Indonesia, with a focus on the application of Law Number 37 of 2004 and other related laws and regulations. By analyzing real cases and court decisions, this research is expected to provide a clearer understanding of how the law provides protection for the rights of third parties in the context of bankruptcy. In addition, the results of this research are expected to be a reference for legal practitioners, courts, and policymakers in resolving bankruptcy disputes involving third-party assets.

2. Materials and Methods

The research method used in this study is the juridical normative method, which refers to a doctrinal legal approach by examining the legal norms contained in laws and regulations related to bankruptcy, especially Law Number 37 of 2004 concerning Bankruptcy

and Postponement of Debt Payment Obligations and the Civil Code (Civil Code). This research will focus on the analysis of the concept of legal protection for third-party assets in bankruptcy disputes by using literature studies as the main source, which includes laws and regulations, court decisions, and relevant legal doctrines. This approach aims to deeply understand how legal norms are applied and interpreted in the context of third-party asset protection, as well as to identify legal issues that arise in bankruptcy practice in Indonesia.

3. Results and Discussion

3.1 Subsection *Legal Protection of Third Party Assets in the Context of Bankruptcy*

Legal protection of third-party assets in the context of bankruptcy is an important aspect of bankruptcy law that aims to protect the rights of individuals or entities that are not part of the debt-receivables relationship between debtors and creditors. In the Indonesian legal system, bankruptcy is regulated by Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUK-PKPU), which provides guidelines regarding the debtor debt settlement process through the bankruptcy mechanism. However, in this process, there is a risk that assets belonging to third parties may be improperly involved or confiscated, so it is important to understand the extent to which the law provides protection for the rights of third parties. A third party in the context of bankruptcy can be an individual or legal entity that has a legal relationship with the debtor, but is not directly related to the debts and receivables obligations on which the bankruptcy is based (Sutedi, 2008). For example, assets owned by a third party may be in the debtor's possession at the time the bankruptcy judgment is issued, but legally still belong to the third party. In such a situation, the question that often arises is whether the asset should be considered part of the bankruptcy bankrupt, which means that the asset can be used to pay the debts of the debtor, or whether the asset should be excluded because it is the legal property of a third party.

The Bankruptcy and Suspension of Debt Payment Obligations Law provides a general definition of bankruptcy boedel, which is all the debtor's assets that exist at the time the bankruptcy judgment is pronounced and everything obtained during the bankruptcy period (Zakia Fhadillah et al., 2023). However, in practice, the identification of assets included in a bankruptcy boedel is often not simple, especially when there are assets that are physically in the debtor's possession but legally belong to a third party. In order to protect the rights of third parties, the law provides certain mechanisms that allow third parties to file objections or claims against assets that are considered part of the bankruptcy boedel. Legal protection of third-party assets in bankruptcy is highly dependent on the basic principles of civil law that govern the ownership and control of goods. Based on Article 584 of the Civil Code (Civil Code), ownership of movable and immovable goods is obtained through inheritance, agreement, handover, or length of time (Putri et al., 2024). In the context of bankruptcy, if the assets of a third party are in the control of the debtor but the ownership has never changed, then the assets cannot legally be included in the bankruptcy boedel. However, it is often necessary to prove clearly and convincingly the ownership status of the asset to prevent it from being confiscated in the bankruptcy process.

In addition, the UUK-PKPU also provides space for third parties to protect their interests through the debt verification process in court. In this process, a third party who feels that his assets were improperly put into the bankruptcy boedel can file a claim with the curator and ask the court to exclude the assets from the bankruptcy boedel. In this case, the burden of proof lies with the third party who must show that the disputed assets are not part of the debtor's assets and therefore should not be used to pay off the debts of the debtor. Courts play a very important role in ensuring that the rights of third parties are properly protected in the insolvency process. The judge has the authority to assess the evidence submitted by a third party and decide whether the disputed assets are indeed part of the bankruptcy boedel or not. In making decisions, the court must pay attention to the principles of justice and legal certainty and consider all relevant facts and documents.

For example, if a third party can prove that the asset was acquired in a lawful manner and never transferred ownership to the debtor, then the court may decide to exclude the asset from bankruptcy.

Court decisions in such cases are often important precedents in bankruptcy law in Indonesia. The precedent not only provides guidance for the court in resolving similar disputes in the future, but also provides legal certainty for third parties involved in bankruptcy disputes. With a strong precedent, third parties can feel more protected and have a clear legal basis to defend their assets from seizure in bankruptcy proceedings. In addition to protection through the debt verification process, third parties can also take advantage of other legal mechanisms, such as civil lawsuits, to defend their rights to the disputed assets. This lawsuit can be filed if a third party feels that his assets were illegally confiscated or used by the debtor or curator in the bankruptcy process. In this lawsuit, a third party can demand the return of its assets as well as compensation for losses incurred as a result of the confiscation. However, legal protection of third-party assets is not only limited to court proceedings. Protection can also be obtained through an agreement or agreement between a third party and the debtor before bankruptcy occurs. For example, a third party may enter into an agreement that expressly states that certain assets remain his, even if those assets are in the debtor's possession. Such agreements, if supported by strong evidence, can be an important legal basis in protecting the rights of third parties in bankruptcy proceedings.

3.2 Legal Implications of the Merger of Third-Party Assets in a Bankruptcy Bankruptcy

The legal implications of the merger of third-party assets into a bankruptcy boedel is a very crucial issue in the bankruptcy process in Indonesia. Boedel bankruptcy, as stipulated in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUK-PKPU), includes all debtor assets that existed at the time the bankruptcy judgment was pronounced and obtained during the bankruptcy process. However, problems arise when assets that should not be included in the debtor's wealth because they are the legal property of a third party are inappropriately included in the bankruptcy assets (Ramadina et al., 2023). This kind of merger not only causes losses to third parties, but also creates complex legal consequences and has the potential to lead to protracted legal disputes. One of the most immediate legal implications of incorporating third-party assets into a bankruptcy boedel is the potential for infringement of property rights. In Indonesian civil law, property rights are the most perfect rights that give the owner full authority over the goods he owns, including to use, enjoy, and transfer his ownership. Article 570 of the Civil Code (Civil Code) expressly stipulates that property rights give the power to act as freely as possible to their property, without reducing the restrictions according to the law. When a third-party asset is improperly put into bankruptcy, this property rights are threatened, as the asset can be sold by the curator to pay the debts of the debtor. This can of course lead to the loss of third-party ownership of the asset, which should be legally protected.

Furthermore, the incorporation of third-party assets into a bankruptcy boedel can also interfere with legal certainty. Legal certainty is one of the fundamental principles in the legal system, which guarantees that individuals or entities can predict the legal consequences of their actions (Damaitu et al., 2024). In the context of bankruptcy, legal certainty means that all parties involved, including third parties, must be able to rely that only assets belonging to the debtor will be put into bankruptcy. When a third party's assets are incorporated without a strong legal basis, this undermines the principle of legal certainty, as the third party can no longer ensure that its rights will be protected in a bankruptcy situation (Suprpto, 2023). This situation can lead to distrust of the legal system and weaken economic stability, as third parties may become hesitant to enter into business relationships with entities that are potentially facing bankruptcy. In addition, another legal implication is the potential for disputes between third parties and the curators responsible for managing bankruptcy boedels. The curator, who acts as the manager of the bankruptcy estate, is responsible for inventorying and selling the debtor's

assets to meet the creditors' claims. However, if the curator puts the assets of a third party into the bankruptcy boedel without a valid basis, the third party of course has the right to file an objection. These kinds of disputes often have to be resolved through court proceedings, where a third party must prove that the assets put into the bankruptcy boedel are in fact his property and not part of the debtor's assets. This process is not only time-consuming, but also requires a lot of money, which of course burdens third parties.

Further, the incorporation of third-party assets into a bankruptcy boedel can also have a negative impact on the business relationship between the third party and the debtor. The third party may feel disadvantaged if its assets are seized to pay the debtor's debts, which can result in a rift in the previously good business relationship. Additionally, third parties may become reluctant to conduct similar transactions in the future, especially if they feel that the legal system does not provide adequate protection for their rights. This impact is not only limited to the third party concerned, but can also affect the business climate in general, as trust in the legal system and certainty of property protection are important factors in the stability and sustainability of business relationships (Abas et al., 2023). The legal implications of incorporating third-party assets into a bankruptcy boedel can also involve the legal liability of the curator. The curator, as a party appointed by the court to administer the bankruptcy boedel, has an obligation to act in good faith and comply with the provisions of the applicable law. If the curator intentionally or negligently puts the assets of a third party into the bankruptcy boedel, the curator may be held liable for losses suffered by the third party. These responsibilities can include the obligation to return the seized assets or pay damages to the aggrieved third party. Thus, the unauthorized incorporation of third-party assets into a bankruptcy boedel not only has legal consequences for the third party, but also for the curator who acted outside his authority.

In addition, another legal implication is the impact on the bankruptcy process itself. The unauthorized incorporation of third-party assets into a bankruptcy boedel can complicate and prolong the bankruptcy process, as the court must resolve disputes regarding the status of those assets before it can proceed with the distribution of assets to creditors. This protracted process is not only detrimental to third parties, but also debtors and creditors, as they have to wait longer for debt settlement (Soediby, 2023). In this situation, the efficiency of the bankruptcy process is disrupted, and the main goal of bankruptcy, which is to settle debts fairly and quickly, is not achieved (Simanjuntak, 2020). On the other hand, the incorporation of third-party assets into bankruptcy boedel also has the potential to create a legal precedent that could affect similar cases in the future. If courts consistently put third-party assets into bankruptcy boedels without a strong legal basis, this could lead to practices that are detrimental to third parties in the future. Such precedents can erode legal protections that should be provided to third parties and create greater legal uncertainty. On the other hand, if the court expressly rejects the unauthorized incorporation of third-party assets into a bankruptcy boedel, it can strengthen legal protections and provide clarity regarding the rights of third parties in the bankruptcy process.

3.3 Analysis of Third Party Asset Dispute Cases in Bankruptcy in Indonesia

In bankruptcy practice in Indonesia, disputes often occur involving third-party assets, namely assets that are legally owned by individuals or entities that are not directly involved in the debt-creditor relationship. These disputes generally arise when third-party assets are included in the bankruptcy estate of the debtor's assets used to pay off the debtor's debts (Saija, 2024). Such disputes raise complex legal issues because they have the potential to violate third-party property rights, which should be protected by law. The following analysis will explore several important cases involving third-party asset disputes in bankruptcy, as well as how the Supreme Court has decided these cases, providing a deeper understanding of the legal principles applied in this context.

a. The Case of PT Karsa Industama Mandiri (KIM) and the Owners of Bali Kuta Residence Apartment Units

One of the significant cases in the context of third-party asset disputes is Decision Number 157 K/Pdt.Sus-Bankruptcy/2013, where PT Karsa Industama Mandiri (KIM) was declared bankrupt, and several apartment units in Bali Kuta Residence owned by third parties became the object of dispute. The owners of the apartment units had no debt-receivable relationship with the debtor, but they found that their apartment units had been put into bankruptcy by the curator. The apartment owners then filed a lawsuit to exclude their assets from bankruptcy. They argued that the apartment unit belonged to them which was legally obtained and had nothing to do with PT KIM's debts. The Supreme Court, in its ruling, granted the apartment owners' lawsuit and ordered that the apartment units be removed from bankruptcy. This ruling is important because it affirms the principle that the property rights of third parties must be protected in the bankruptcy process, and assets legally owned by third parties should not be included in the bankruptcy boedel unless there is very strong evidence that the assets are related to the debtor debt.

b. The case of PT Citra Mandiri Multi Finance and Ahmad Rifki

Another case that reflects the dynamics of third-party asset disputes in bankruptcy is Decision Number 528 K/Pdt.Sus-Bankruptcy/2016, involving PT Citra Mandiri Multi Finance and Ahmad Rifki. In this case, Ahmad Rifki filed a challenge against the curator's actions that put several of his bus vehicles into bankruptcy bodele. Rifki argued that the vehicles had been legally purchased by him from a third party and there was no debt relationship between him and PT Citra Mandiri Multi Finance. The curator, on the other hand, put the vehicles in bankruptcy boedel on the grounds that the vehicles were in the debtor's possession when the bankruptcy was decided. However, the Supreme Court in its decision affirmed that the vehicles are the legal property of Ahmad Rifki and therefore should not be put into bankruptcy. This decision shows that legal ownership supported by official documents such as Proof of Motor Vehicle Owner (BPKB) is a strong basis for rejecting the incorporation of third-party assets into bankruptcy boedels. The case also underscores the importance of careful verification by curators before putting assets into bankruptcy boedel, to avoid infringement of the rights of third parties.

c. The Case of CV Zentrum DSB and Didik Purnomo

Decision No. 1001 K/Pdt.Sus-Bankruptcy/2016 is another example of a third-party asset dispute involving CV Zentrum DSB which is in bankruptcy and Didik Purnomo, the legal owner of several bus vehicles. In this case, the curator puts the vehicles in bankruptcy boedel on the grounds that the vehicles are in the debtor's possession when the bankruptcy is declared. Didik Purnomo filed a resistance on the grounds that the vehicles were purchased by him legally and were not related to the debtor debt. The Supreme Court in its decision reaffirmed that the vehicles were the legal property of Didik Purnomo and therefore must be removed from bankruptcy. The ruling underlines that the property rights of third parties that can be proved by valid documents must be respected, and that the incorporation of third-party assets into a bankruptcy boedel can only be carried out if there is strong evidence that the assets do indeed belong to the debtor or are directly related to the debtor debt. The case also emphasizes the importance of transparency and legal compliance in the bankruptcy process, especially in terms of the identification of assets included in the bankruptcy bodebel.

d. The Case of CV Zentrum DSB and H. M. Machrus

A case similar to the previous case is Decision Number 1002 K/Pdt.Sus-Bankruptcy/2016, where H. M. Machrus, the legal owner of several bus vehicles, filed a challenge against the curator's action of putting the vehicles into the bankruptcy boedel of CV Zentrum DSB. The curator confiscated the vehicles on the grounds that the vehicles were in the possession of the debtor at the time of the bankruptcy, but Machrus argued that the vehicles belonged to him and not related to debts of debtors. The Supreme Court in its decision ruled that the vehicles belonged to H. M. Machrus and

should be removed from bankruptcy. This ruling reinforces the principle that has been outlined in previous cases, namely that third-party assets that are not related to the debtor's debt and are legally owned should not be included in the bankruptcy bodeel. The case also shows that third parties have a strong right to protect their assets from the actions of unauthorized curators, and that courts play an important role in ensuring that these rights are respected.

From the analysis of the above cases, it can be concluded that the legal protection of third-party assets in bankruptcy disputes in Indonesia is highly dependent on proof of legal ownership and curatorial actions in accordance with applicable legal regulations. The Supreme Court has consistently upheld the principle that third-party assets that are legally owned and not directly related to the debtor should not be included in the bankruptcy bodeel. These cases show that Indonesian courts are committed to protecting the property rights of third parties in bankruptcy proceedings, and that these property rights can only be ignored if there is very strong evidence to show that the assets actually belong to the debtor or are related to the debtor's debt. In addition, these cases also emphasize the importance of careful verification by the curator before putting the assets into a bankruptcy boedel, to avoid legal disputes that can prolong the bankruptcy process and harm all parties involved. This verification involves a careful examination of the evidence of ownership and legal status of the asset, as well as considering the interests of all parties involved, including third parties who may not have a direct relationship with the debtor but have a legitimate interest in the disputed asset (Rakasatutya et al., 2023).

Thus, in the context of bankruptcy, it is important for all parties including debtors, creditors, curators, and third parties to understand and respect the rightful property rights, as well as to ensure that the bankruptcy process is carried out fairly and transparently. This will not only increase trust in the insolvency legal system in Indonesia, but will also encourage the creation of a more stable and fair business environment, where the rights of third parties are respected and well protected.

3.4 The Role of Courts in Determining the Status of Third Party Assets in Bankruptcy Disputes

In the context of bankruptcy in Indonesia, the court has a very important role in determining the status of the assets of third parties involved in bankruptcy disputes. A court decision on whether or not an asset belonging to a third party can be placed in a bankruptcy boedel is often the main determinant in the resolution of such disputes. The court is not only tasked with enforcing the law, but also ensuring that the rights of all parties involved, including third parties who may not be directly related to the debtor's debt, are protected fairly and proportionately (Suwasta et al., 2024). In exercising this role, the court must balance the interests of creditors seeking repayment of debts and the rights of third parties who wish to retain ownership of their assets. The court, in deciding the status of the assets of the third party, must first assess the evidence submitted by the parties to the dispute. This evidence can be in the form of ownership documents, contracts, or other agreements that show the legal relationship between the third party and the debtor. In addition, the court must also consider whether the asset is legally and correctly owned by a third party or whether the asset is indeed related to the financial obligations of the debtor who is in bankruptcy. In this process, the court acts as an interpreter of the law who must ensure that every decision taken is based on the correct interpretation of the applicable laws and regulations, especially Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUK-PKPU).

One important aspect of the court's role in determining the status of third-party assets is its ability to identify and separate assets that legally belong to a third party from assets that are actually part of a bankruptcy boedel. The court must conduct an in-depth and objective analysis of each asset in dispute, taking into account all the facts and arguments presented. This is important to ensure that the court not only protects the interests of creditors, but also respects the property rights of third parties who may be in a vulnerable position as a result of the bankruptcy proceedings. The court's decision in this

case not only affects the parties involved, but can also set an important precedent for similar cases in the future. The court also plays a role in enforcing the principle of legal certainty in bankruptcy disputes involving third-party assets. Legal certainty is one of the basic principles that must be upheld in every judicial process, including in the context of bankruptcy. With legal certainty, all parties involved, including third parties, can clearly understand their rights and obligations, and can predict the legal consequences of their actions (Nurdin, 2023). In the case of third-party asset disputes, legal certainty means that the court must provide a clear and unequivocal decision regarding the status of the disputed asset, based on a proper and consistent interpretation of the applicable law.

In addition, the court also has the responsibility to protect the constitutional rights of third parties in bankruptcy disputes. Property rights are one of the human rights recognized by the Indonesian constitution, and the courts must ensure that this right is not violated in the bankruptcy process. In this case, the court should carefully consider any claims brought by the third party, and ensure that any decisions taken do not unfairly injure the rights of the third party. Courts must act in good faith and based on the principles of fairness, ensuring that the property rights of third parties are respected, unless there is strong evidence that the assets are indeed related to the debtor debt. In some cases, the court also plays a role in resolving disputes involving *actio pauliana*, which is a legal action taken to cancel the debtor's legal act that is detrimental to the creditor, such as the transfer of assets to a third party in bad faith. In this kind of case, the court must evaluate whether the debtor's action in transferring assets to a third party was carried out with the aim of avoiding the obligation to pay the debt to the creditor. If the court finds that there is an element of fraud or bad faith in the transfer of the assets, then the court may decide to put the assets in bankruptcy *boedels*, even if the assets are legally owned by a third party.

However, in many cases, a third party who has valid proof of ownership of the disputed asset can usually retain their title. The court, in this case, must ensure that the curator or creditor does not act arbitrarily in putting the assets of a third party into the bankruptcy *boedel*. The curator has an obligation to conduct careful verification of the legal status of any asset entered into the bankruptcy *boedel*, and the court must evaluate the actions of this curator to ensure that no third party's property rights are infringed. In deciding third-party asset disputes in bankruptcy, the court must also consider the economic and social impact of the decision taken. The decision to include or exclude third-party assets from a bankruptcy *boedel* can have far-reaching consequences, not only for the parties involved in the dispute, but also for the credibility and stability of the bankruptcy legal system as a whole. Therefore, the court must act with the utmost care and responsibility, ensuring that decisions taken are based on strong legal principles and are acceptable to all parties involved.

In addition, the court also has an educational role in bankruptcy disputes involving third-party assets. Court rulings in such cases not only resolve disputes, but also provide legal guidelines for practitioners, creditors, debtors, and third parties on how third party assets should be treated in the context of bankruptcy. As such, court rulings can help prevent similar disputes in the future by providing legal certainty and clear standards regarding the status of third party assets in bankruptcy.

4. Conclusions

Legal protection of third-party assets in the context of bankruptcy in Indonesia is a very important aspect in maintaining justice and legal certainty. Based on the results of the study, it can be concluded that third-party assets that are legally owned and not directly related to the debtor should not be included in the bankruptcy *bodeel*. The Supreme Court has consistently upheld this principle, which is seen in various rulings that exclude third-party assets from bankruptcy *boedel* if there is no strong evidence showing a link to the debtor's debt. Courts play a key role in ensuring that the rights of third parties are well protected, as well as in balancing the interests of creditors and third parties. With a strong precedent from the courts, the bankruptcy law system in Indonesia is expected to

provide better protection of third-party assets, increase public trust in the bankruptcy process, and create a more stable and fair business environment.

References

- Abas, M., Anisa, Warman, M. A., Citra, H., & Wijayanti, A. (2023). *Pengantar Hukum Bisnis : Pengetahuan Dasar-dasar Hukum Bisnis di Indonesia*. PT. Sonpedia Publishing Indonesia.
- Arya Dharma, Y., & Dintara Lubis, S. (2024). Analisis Yuridis Peralihan Jaminan Fidusia Kepada Pihak Ketiga Tanpa Sepengetahuan Kreditur. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam*, 16(2), 354–367. <https://doi.org/10.32505/jurisprudensi.v16i2.8555>
- Astuti, S. K. (2024). *Perlindungan Hukum Terhadap Kreditur Konkuren PT Istaka Karya (Persero) Dalam Pailit* [Skripsi]. Universitas Islam Indonesia.
- Christina, B. (2021). Upaya Hukum Penyelesaian Sengketa Aset Kredit Akibat (Cassie) Setelah Pelelangan Oleh Badan Penyehatan Perbankan Nasional Yang Berkeadilan. *LexJurnalica*, 18(3), 233–246.
- Damaitu, E. R., Mulyana, Y., Rangotwat, C. A., Satory, A., & Batubara, I. (2024). *Eksplorasi Awal Dalam Ilmu Hukum* (I. P. Kusuma, Ed.). Yayasan Cendikia Mulia Mandiri.
- Lie, G., Saly, J. N., Gunadi, A., & Tiray, A. M. (2020). PROBLEMATIK UU NO. 37 TAHUN 2004 TENTANG KEPAILITAN DAN PKPU TERHADAP BANK SEBAGAI KREDITOR SEPARATIS. *Jurnal Bakti Masyarakat Indonesia*, 2(2). <https://doi.org/10.24912/jbmi.v2i2.7242>
- Marpi, P. Y., & Dewi, R. S. (2023). Implementasi Actio Pauliana Dalam Upaya Perlindungan Bagi Kreditur Akibat Perbuatan Tidak Beritikad Baik Debitor Terhadap Aset Pailit'. *Proceeding of Conference on Law and Social Studies*. <http://prosiding.unipma.ac.id/index.php/COLaS>
- Munah, F., & Deni, F. (2024). Perlindungan Hukum Istri Dalam Kepailitan Suami. *Binamulia Hukum*, 13(1), 277–288. <https://doi.org/10.37893/jbh.v13i1.834>
- Nasution, M. I. (2019). PERANAN HUKUM DALAM PEMBANGUNAN EKONOMI PERSPEKTIF PENYELESAIAN SENGKETA EKONOMI MELALUI PERADILAN NIAGA. *ADILYA : Jurnal Hukum Dan Kemanusiaan*.
- Nugraha, R. M., Machmud, A., & Fuad, F. (2023). Akibat Hukum Terhadap Aset Milik Pihak Ketiga yang Dijaminkan Kepada Kreditur Dalam Kepailitan. *Binamulia Hukum*, 12(1), 191–199. <https://doi.org/10.37893/jbh.v12i1.504>
- Nurdin, A. (2023). *KEPAILITAN BUMN PERSERO BERDASARKAN ASAS KEPASTIAN HUKUM*. Penerbit Alumni.
- Putri, G., Fionita, J., & Matheus, J. (2024). Lelang Eksekusi Kepailitan atas Tanah dan Bangunan yang Dimiliki Bersama oleh Pihak Ketiga dan Debitor Pailit. *Jurnal Supremasi*, 1–15. <https://doi.org/10.35457/supremasi.v14i2.3810>
- Rakasatutya, F., Yuslim, Y., & Andora, H. (2023). KEDUDUKAN DENDA KETERLAMBATAN PELAKSANAAN PEKERJAAN KONSTRUKSI DALAM KEPAILITAN. *UNES Journal of Swara Justisia*, 7(2), 497. <https://doi.org/10.31933/ujsj.v7i2.361>
- Ramadina, N. P., Shafarza, B. G., Azzahra, S., Suryanti, N., & Yuanitasari, D. (2023). Tinjauan Yuridis Kepailitan Studi Kasus PT. Kertas Lece pada Putusan Nomor 1/K/Pdt. Sus-Pailitan/2020. *Jurnal Tana Mana*, 4(2), 282.
- Saija, R. (2024). *Buku Perspektif Pailit dalam Perusahaan*. Deepublish.
- Sihombing, J., Sahril, I., & Martien, D. (2024). PERLINDUNGAN HUKUM PIHAK KETIGA SEBAGAI PEMBERI JAMINAN HAK TANGGUNGAN TERHADAP PENGALIHAN PIUTANG SECARA CESSIE OLEH KREDITURDALAM HAL DEBITUR GAGAL BAYAR. *CENDEKIA : Jurnal Penelitian Dan Pengkajian Ilmiah*, 1(8), 511–519. <https://doi.org/10.62335/5fsg344>
- Simanjuntak, H. A. (2020). PRINSIP PRINSIP DALAM HUKUM KEPAILITAN DALAM PENYELESAIAN UTANG DEBITUR KEPADA KREDITUR. *JURNAL JUSTIQA*, 2(2), 17. <https://doi.org/http://dx.doi.org/10.36764/justiqa.v2i2.458>
- Soedibyo, A. A. (2023). *Hukum Jaminan: Dasar-dasar mengenai Jaminan*. Jejak Pustaka.
- Suprpto, N. P. (2023). *Tanah Dan Bangunan Milik Pihak Lain Sebagai Jaminan Hak Tanggungan Yang Termasuk Dalam Boedel Pailit (Analisis Putusan Mahkamah Agung No. 689k/Pdt. Sus/2012)* [Skripsi]. Universitas Islam Indonesia.
- Sutedi, A. (2008). *Hukum Perbankan : Suatu Tinjauan Pencucian Uang, Merger, Likuidasi dan Kepailitan* (Cetak ke-2). Sinar Grafika.

- Suwasta, A. D., Juhana, U., Alfiany, T. F., & Mulyanti, A. S. (2024). *Pengantar Hukum Perdata* (H. A. Kusumah, Ed.). Tohar Media.
- Zakia Fhadillah, Astiti, N. M. Y. A., Cholil, M., Alfian, M. A., & Aliefia, M. (2023). Problematika Kepailitan Transnasional Terhadap Pengurusan dan Pemberesan Aset Debitur Pailit. *Notaire*, 6(2), 307–324. <https://doi.org/10.20473/ntr.v6i2.43545>