



## The Role of Curator in Increasing The Asset Recovery Value Through The Bankruptcy Process

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### Abstract

*Bankruptcy cases in the Commercial Court since 2004 have not shown a significant increase, this is caused by the low asset recovery value which is the responsible of the curator. This condition makes debt settlement through bankruptcy unattractive for the creditors. The research question in this study was does the ratio of the curator's legal liability for errors or negligence result losses for the debtor in the legal process of managing and settling the assets of the bankrupt debtor in supporting the increase of asset recovery in bankruptcy. This research was a prescriptive normative research. The results of the study indicates that the Curator must be responsible for errors and negligences if these are the main causes of the less optimal settlement of bankruptcy documents. From a creditor's perspective, the recovery value is an indicator of the success or failure of the bankruptcy process. If asset recovery is low, creditors only feel that they have won on paper, causing them not to be interested in going through the bankruptcy process to resolve their debt problems. It is expected that the curator in carrying out his duties in managing and settling the assets of the bankrupt debtor can increase the value of the bankruptcy assets as much as possible for the benefit of the debtor and creditors. However, up to now there is still no clarity about the limits of errors and omissions. An adequate legal structure is needed to support the smooth process of bankruptcy asset settlement and legal substance related to the arrangements for the settlement and management of bankrupt debtor assets by the curator that can support the increase of asset recovery in bankruptcy. Thus, it can be seen which legal substances are obstacles so that they can hinder settlement and management of bankrupt debtor asset by the curator.*

**Keywords:** Asset recovery; Settlement of bankrupt debtor's assets; Debtors; Creditors; Curators.

### A. Introduction

Bankrupt company nowadays will have a bad impact which does not only influence the global condition but also the global condition. In general, a monetary crisis that hits a country has an unfavorable effect on the country's economy that complicate the business to run. The ability to develop the business is severely disrupted, even to maintain the business continuity is also more complex.<sup>1</sup> Furthermore, the complication has also had a major impact on the ability of the business to meet their debt repayment obligations to creditors. This situation in turn has a continuative problem if not resolved and it will be a wider impact. It is not only the business continuity and economic aspects in general, but also on employment and social aspects that need to be resolved fairly by paying attention to the interests of entrepreneurs as debtors or creditor interests equally.<sup>2</sup>

For example, when the President Director of Yamaichi Securities on December 1, 1995 announced his company's bankruptcy at a press conference in Tokyo, Japan.

<sup>1</sup>Victorianus M.H. Randa Puang, 2011. *Penerapan Asas Pembuktian Sederhana dalam Penjatuhan Putusan Pailit*, PT.Sarana Tutorial Nurani Sejahtera (SATU NUSA), Jakarta, p.1.

<sup>2</sup>Serlika Aprita, 2016, *Kumpulan Tulisan Hukum*, CV.Pena Indis, Makasar, p.23.

From this case, it can be seen that many parties become victims when the company is declared bankrupt. Therefore, the bankruptcy institution is one of the basic needs in business activities because of the bankruptcy status.<sup>3</sup> To anticipate the debtor's actions suffering the creditors, the government makes significant changes in the laws and regulations, one of those is by revising the existing of Bankruptcy Law. Before Law Number 4 of 1998 in conjunction with the Government Regulation Number 1 of 1998 was issued, the issue of bankruptcy and suspension of debt repayment obligations in our country was regulated in Faillissement Verordening (Staatsblad of 1905 Number 207 in conjunction with Staatsblad of 1906 Number 348). In the course of time, Law Number 4 of 1998 was not able to accommodate all the party's interests in resolving the debt problem. Therefore, it need a concern, perfected by the formal and material aspects. So, on November 18, 2004, Law Number 37 of 2004 was passed concerning Bankruptcy and Suspension of Debt Payment Obligations.<sup>4</sup>

If we trace the law history of bankruptcy, it is known that the bankruptcy law has existed since Roman times. The word "bankrupt" comes from the law in Italy called *banca rupta*. In medieval Europe, there was a practice of bankruptcy which was carried out by destroying the benches of bankers or merchants who fled secretly with their creditors' assets.<sup>5</sup> As for Venetia (Italy) at that time, where the lenders (bankers) at that time were *banco* (*bangko*) those who could no longer pay their debts or failed in their business, the bench was completely broken and destroyed.<sup>6</sup>

From the historical development of bankruptcy law, the basic concepts of bankruptcy can be classified as follows:

1. Debt collection is the retaliation concept from creditors against bankrupt debtors by collecting their claims against the debtor or the debtor's assets;
2. Debt Forgiveness is in the form of asset exemption (some debtor's assets are excluded from the bankruptcy budget), relief from imprisonment (not imprisoned for failing to pay debts); moratorium (payment delay for a certain period of time and discharge of indebtedness (the release of the debtor or debtor's assets to pay the debt payment which he really cannot fulfill);
3. Debt adjustment is the distribution right of creditors as a group by applying the principle of prorata distribution or structured prorata (division based on creditor class) as well as reorganization or Suspension of Debt Payment Obligation(PKPU).<sup>7</sup>

A company with no ability to pay the debts can file an application for bankruptcy to the Commercial Court to declare the company bankrupt.<sup>8</sup> Commercial Court is a court specifically authorized to handle bankruptcy cases. The District Court has a position that oversees the Commercial Court. The Commercial Court was first established at the Central Jakarta District Court based on the provisions of Article 281 paragraph (1) Government Regulation in Lieu of Law Number 1 of 1998 in conjunction

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<sup>3</sup>Sri Redjeki Hartini.2008.*Hukum Kepailitan*, Universitas Muhamadiyah Malang Press, Malang, p.3

<sup>4</sup>*Ibid.*,p.8.

<sup>5</sup>Rachmadi Usman.2004.*Dimensi Hukum Kepailitan di Indonesia*,Gramedia Pustaka Utama,Jakarta, p.1.

<sup>6</sup>Munir Fuady.2005.*Hukum Pailit Dalam Teori dan Praktek*, Edisi Revisi (Disesuaikan dengan Undang-undang Nomor 37 Tahun 2004), PT.Citra Aditya Bakti, Bandung, p.2.

<sup>7</sup> Emmy Yuhassarie dan Tri Harnowo.2005. *Pendahuluan:Pemikiran Kembali Hukum Kepailitan Indonesia* dalam Emmy Yuhassarie dan Tri Harnowo (Tim Editor), *Undang-Undang Kepailitan dan perkembangannya:Prosiding Rangkaian Lokakarya Terbatas dan Masalah-Masalah Kepailitan dan Wawasan Hukum Bisnis Lainnya*,Second Printing, Center for Legal Studies,2005,p.xix.

<sup>8</sup>Serlika Aprita ,2019, *Penerapan Asas Kelangsungan Usaha Menggunakan Uji Insolvensi: Upaya Mewujudkan Perlindungan Hukum Berbasis Keadilan Restrukturatif*, CV.Pustaka Abadi,East Java, p.45.

with Law Number 1 of 1998 was declared having an authority to examine and decide cases within the Commercial Court scope which is authorized to accept applications for bankruptcy and suspension of debt payment obligations.<sup>9</sup>

Bankruptcy institution basically provides a solution if the debtor stops paying or with no ability to pay for the debtor. Bankruptcy institutions basically have two functions at once, namely:

1. Bankruptcy institution functions to guarantee the creditors that debtors will not commit fraud, and responsible for all debts to all creditors.
2. Bankruptcy institution protects the debtors against the possibility of mass execution by their creditors.
3. Protecting concurrent creditors to obtain their rights based on the issuance of guarantee principle regulated in the provisions of Article 1131 of the Civil Code.<sup>10</sup>

By deciding the debtor to be a bankrupt debtor by the Commercial Court, there will be a legal consequence which is theoretically regulated in Part Two of the Bankruptcy Law Number 37 of 2004 which consists of Articles 19 to 62.<sup>11</sup> One of them is the legal consequences of bankruptcy against bankrupt debtor and his assets. Bankrupt asset still belongs to the debtors who are bankrupt based on a court decision.<sup>12</sup> Based on the provisions of Article 21 of Law Number 37 of 2004, it is stated that bankruptcy covers all debtor assets since the bankruptcy declaration is made along with all assets acquired during the bankruptcy. The provision of this article indicates that the declaration of bankruptcy, the debtor of bankruptcy by law loses the right to control and manage his assets which are intended to be declared bankrupt, starts the bankruptcy.<sup>13</sup> Discussing the right loss to control and manage the debtor assets, the curator plays a role for the debtor assets as regulated in Article 69 paragraph (1) of the Bankruptcy Law Number 37 of 2004, which explains that the curator is authorized to manage and enlarge the bankrupt assets. Thus, the debtor loses the right to control the assets included the bankruptcy but not the asset rights outside the bankruptcy.<sup>14</sup> Another opinion from Imran Nating, although it has been emphasized that with the issuance of the bankruptcy decision, the assets of the bankrupt debtor will continue to be controlled by the curator, but not all assets of the bankrupt debtor are handed over to the curator.<sup>15</sup>

There are several excluded assets of bankruptcy, namely:

1. Sleeping equipment and daily clothes;
2. Office equipment;
3. Work equipment;
4. Food supplies for approximately one month;

<sup>9</sup>Kelik Pramudya, Pengadilan Niaga sebagai Lembaga Penyelesaian Perkara Kepailitan, *Artikel*, dalam <http://click-gtg.blogspot.com/2009/02/pengadilan-niaga-sebagai-lembaga.html>, accessed on October 2, 2019.

<sup>10</sup>Agus Subroto, "Undang-Undang Kepailitan dan Perkembangan Hukum Kepailitan Menyongsong Era Pasar Bebas", *Paper presented at Legal Discussion "Konsistensi Undang-Undang Kepailitan dan Implikasinya Terhadap Perkembangan Dunia Usaha Khususnya di Sumatera Selatan"*, Mahameru Room Swarna Dwipa Hotel, Palembang, 21<sup>st</sup> of May 2005, p.9.

<sup>11</sup>Parwoto Wignjosumarto.2003.*Hukum Kepailitan Selayang Pandang "Himpunan Makalah"*, PT. Tata Nusa, Jakarta, p.118

<sup>12</sup>Gunawan Widjaja.2004.*Tanggung Jawab Direksi atas Kepailitan Perseroan*, Rajawali Pers, Jakarta, p.94.

<sup>13</sup>Serlika Aprita, 2016, *Penerapan Asas Keseimbangan dalam Hukum Kepailitan pada Putusan Pengadilan Niaga, tentang Pembatalan Perdalamaan dalam PKPU (Analisis Putusan Pengadilan Niaga No.01 /PEMBATALAN PERDALAMAN 2006.PN.Niaga.JKT.PST)*, Pena Indis, Makasar, p.52.

<sup>14</sup>Fennieka Kristianto.2009.*Kewenangan Menggugat Pailit dalam Perjanjian Kredit Sindikasi*, Minerva Athena Pressindo, Jakarta, p.83.

<sup>15</sup>Imran Nating.2004.*Peranan dan Tanggung Jawab Kurator dalam Pengurusan dan Pemberesan Harta Pailit*, PT.Raja Grafindo Persada, Jakarta, p.145.

5. Salaries, wages, pensions, fees and honorariums;
6. Copyright;
7. An amount of money determined by the supervisory judge to provide money for (the debtor);
8. Amount of money received from their children's income.<sup>16</sup>

The above exception is similar to the provisions of Article 22 of the Bankruptcy Law Number 37 of 2004 which states that Article 21 do not apply for:

- a. Several Objects, including animals to help the debtor's work, equipment, medical equipment for health, bedding and equipment used by the debtor and his family, and food for 30 (thirty) days for the debtor and his family living in the house;
- b. Everything that is obtained by the debtor and his own work as compensation from a position or service, as wages, pensions, waiting fees or allowances, to the extent determined by the supervisory judge;
- c. Money given to the debtor to fulfill an obligation to provide a living according to the law.

Thus, the debtor does not lose his ability to carry out the legal actions (*volkomen handelingsbevoeg*), his actions do not have legal consequences for his assets which are included in the bankruptcy bill. This means that if the debtor violates this legal provision, his actions do not bind his wealth, unless the engagement in question brings benefits to the bankrupt budget. Based on this provision, it indicates that bankruptcy results in legal uncertainty for creditors in obtaining repayment of debt payments.<sup>17</sup> Based on the provisions of Article 67 and Article 67A of Law Number 37 of 2004, it is stated that the curator is an individual or civil association who has special expertise to manage and settle bankrupt assets and has been registered with the Ministry of Justice and Human Rights. According to S.Wojowasito as quoted from Annalisa Yahanan, curator is defined as: (a) a person appointed to supervise bankrupt goods; (b) the person who carries out the curatele; (c) the member of the university supervisory commission. Based on the three meanings of curator, as emphasized by S. Wojowasito, a more appropriate meaning is used that curator is a person appointed to supervise bankrupt goods.<sup>18</sup>

The curator is appointed by the Commercial Court since a declaration of bankruptcy. The debtor or creditor applying for bankruptcy does not submit a proposal for the appointment of another curator to the court, the Balai Harta Peninggalan (Insolvency and Public Trustee's Office) shall act as curator. The curator must be independent and have no conflict with either the debtor or the creditor.<sup>19</sup> According to Law No. 37 of 2004, the curator, who is in charge of managing and settling the assets of the bankrupt debtor, is not monopolized by the Balai Harta Peninggalan (Insolvency and Public Trustee's Office) as one curator, but it is also possible for other parties to participate as curators with the provisions that the party has the criteria as described in Article 70 paragraph 2 of Law Number 37 of 2004, namely:

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<sup>16</sup>Annalisa Yahanan.2007.*Kepailitan dan Penundaan Kewajiban Pembayaran Utang:Alternatif Penyelesaian Utang Piutang*,UNSRI, Palembang , p.60.

<sup>17</sup>R.Anton Suyatno.2012.*Pemanfaatan Penundaan Kewajiban Pembayaran Utang Sebagai Upaya Mencegah Kepailitan*, Kencana,Jakarta,p.48.

<sup>18</sup>Annalisa Yahanan,*Op.Cit.*,p.76.

<sup>19</sup>Serlika Aprita,2019, *Etika Profesi Hukum*, PT. Refika Aditama, Bandung,p.33.

1. An individual domiciled in Indonesia, who has the special skills needed to manage or settle the bankruptcy estate;
2. Registered with the ministry in the scope of law and legislation (Minister of Law and Human Rights).<sup>20</sup>

Before the issuance of Government Regulation in Lieu of Law (Perpu) Number 1 of 1998 which was later determined by the House of Representatives (DPR) to become Law Number 4 of 1998, the only curator was the Balai Harta Peninggalan (Insolvency and Public Trustee's Office). However, with the issuance of Law Number 37 of 2004, those possible to be curator besides the Balai Harta Peninggalan is an individual appointed by the court to manage and settle the assets of the bankrupt debtor.<sup>21</sup> In bankruptcy all assets of the debtor are in general confiscation which will then be distributed to all creditors. The distribution of the debtor's assets.

In carrying out their duties, the curator in accordance with the mandate of the bankruptcy law has the authority and obligations as stipulated in the Bankruptcy Law to achieve maximum results from the management and settlement of bankrupt assets in order to fulfill the rights of creditors.<sup>22</sup> However, in carrying out their duties, the curator is not easy or can run smoothly as stipulated by the bankruptcy law. In carrying out their duties, the curator is often hampered by problems, both caused by the debtor himself and other laws and regulations.<sup>23</sup>

In carrying out its duties, the curator is not only concerned with saving the bankrupt assets collected which then distributed to creditors, but as much as possible to increase the value of the bankrupt assets. This is to avoid conflicts of interest with debtors and creditors.<sup>24</sup> However, in practice, the curator makes a lot of mistakes and omissions in carrying out his duties, this has resulted a disappointment for the business actor (entrepreneur) taking the law action when bankrupt to resolve the debt problems more quickly and hope to get maximum results. This disappointment was motivated by the low level of asset recovery received from the proceeds of the settlement of bankrupt assets. In practice, some curators are also less optimal in doing bankrupt settlements due to errors or negligence of the curator, this is as found in various examples of cases as follows:

1. Curator's error/negligence cases to Manage and Settle the Bankrupt Assets of Manulife Indonesia (PT. AJMI)

PT AJMI is a company founded by Manulife Financial Corporation (Manulife) from Canada with 51% shares, Dharma Sakti Sejahtera, TBK. With 40% shares and International Finance Corporation (IFC) with 9% shares. PT AJMI was proposed by Dharma Sakti Sejahtera.TBK (PT.DSS) a bankruptcy, because they did not pay dividends on the company's profits in 1998. The reason why PT.DSS went bankrupt PT.AJMI was that it was stated that PT. AJMI went bankrupt, everything related to the management of assets was fully carried out by the curator. However, PT. AJMI demanded to ask for the replacement of the curator of Kali Sutan who was managing and settling his assets as a bankrupt debtor. The background of PT. AJMI

<sup>20</sup>Gunawan Widjaja.2009.*Resiko Hukum dan Bisnis Perusahaan Pailit*,Forum Sahabat,Jakarta,p.88

<sup>21</sup>Bagus Irawan.2007.*Aspek-Aspek Hukum Kepailitan, Perusahaan dan Asuransi*, PT. Alumni, Bandung,p.67.

<sup>22</sup>Serlika Aprita,2019,*Etika Profesi Kurator*, CV.Pustaka Abadi, East Java,p.12.

<sup>23</sup>Dewi Tuti Muryanti. Dhian Septiandani.Efy Yulistyowati. Pengaturan Tanggung Jawab Kurator Terhadap Pengurusan dan Pembersan Harta Pailit Dalam Kaitannya Dengan Hak Kreditor Separatis. *Jurnal Dinamika Sosial Budaya*, Volume 19, Number 1, June 2017.p.57.

<sup>24</sup>Adrian Sutedi.2009. *Hukum Kepailitan*,Ghalia Indonesia.,Jakarta,p.66.

demands to replace the curator due to the following reasons: (1) Kali Sutan Curator is no longer located as the Indonesian Curators Association (AKI). This is as the Decree of the Minister of Justice states that the curator's license to practice in managing and settling the assets of a bankrupt debtor is only valid if the curator is still active as a member of the AKI curator; (2) the curator of Kali Sutan does not act independently, because the curator is still involved in several interests, as evidenced by the fact that Kali Sutan was against PT. AJMI in Hong Kong in 2001, this shows that the curator in carrying out his main task of managing and settling the assets of the bankrupt debtor is not independent.<sup>25</sup>

## 2. Curator's Error or Negligence Cases in the Management and Settlement of Bankrupt Assets of Adam Air Ltd

Former Adam Air employees as the members of the Adam Air Independent Workers Union (FORSIKAD) filed a lawsuit at the Central Jakarta District Court. They demanded that the judge to replace the curator in the airline company's bankruptcy case. The curators in charge of managing and settling Adam Air's assets are Gunawan Wiryaatmaja and Anthony Prawira.

According to a former employee of Adam Air, he stated that the performance of the two appointed curators was deemed unable to overcome the problems of employees, namely in obtaining severance pay and compensation payments as well as work awards. These two curators were considered slow in handling the bankruptcy and disbursement of Adam Air's company assets. The rights of around 3000 employees are threatened with being unresolved and the rights of employees that amount to Rp.120 billion should be liquidated in August 2008. Based on this case, it shows that there was negligence by the curator in managing and settling bankrupt assets, resulting losses for employees, the curator is considered unable to fight for employee rights.<sup>26</sup>

Based on the legal case above, it shows that these constraints affect the certainty of obtaining the maximum payment for creditors' claims in accordance with the amount (asset recovery), including the certainty of obtaining the maximum payment of bills in accordance with the amount of the bill (asset recovery). The curator in carrying out the management and settlement of the assets of the bankrupt debtor in practice often commits fraudulent acts that almost included a criminal act, resulting losses for creditors because there is no legal certainty in obtaining settlement of receivables obtained from the debtor's assets. In bankruptcy cases, especially when verifying the amount of debt, fictitious creditors may appear. If the fictitious creditor is able to pass the verification process, of course it will result in a lower level of asset recovery for creditors and this is very detrimental to creditors. This condition is very contrary to the philosophy of the purpose of the bankruptcy law as strengthened by Kartini Muljadi's opinion states that the purpose of the Bankruptcy Law is to avoid situations that can harm creditors.<sup>27</sup> In addition, viewed from the point of view of legal history, the bankruptcy law aims to protect creditors by providing a clear and definite

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<sup>25</sup>Iskandar Syahputra Nasution, Kewenangan Pengajuan Pailit terhadap Perusahaan Asuransi, *Tesis*, dalam HYPERLINK <http://www.scribd.com/doc/57254996/ISNANDAR-SYAHPUTRA-NASUTION> <http://www.scribd.com/doc/57254996/ISNANDAR-SYAHPUTRA-NASUTION>, accessed on October 2, 2019.

<sup>26</sup>*Eks Karyawan Adam Air Tuntut Hakim Ganti Kurator*, dalam <http://www.tempo.co/read/news/2009/01/12/083154829/Eks-Karyawan-Adam-Air-Tuntut-Hakim-Ganti-Kurator>, accessed on October 2, 2019.

<sup>27</sup>Kartini Muljadi, *Pengertian dan Prinsip-prinsip Umum Hukum Kepailitan*, Rudhy A. Lontoh et al, (ed), *Op.Cit.*, p.75-76.

way to settle unpaid debts.<sup>28</sup> Therefore, since 2004, the settlement of bankruptcy disputes through the commercial court has decreased, this can be seen from the research conducted by Theresia Endang Ratnawati. According to him, the decline in bankruptcy filings by creditors occurred from 2001-2003 and 2005-2006. The public as consumers began to turn to other legal remedies, such as using out-of-court dispute resolution procedures through mediation and the Out-of-court Dispute Resolution Agency (BPSK). This legal settlement is indeed more in line with Indonesian culture, which is accustomed to resolving debt and credit cases with a family approach.

The Center for the Study of Indonesian Law and Policy (PSHK) revealed the low integration between bankruptcy law and other legal systems such as Civil Procedure Law, Criminal Law and Public Law as one of the causes of the low achievement of asset recovery. The low asset recovery is often interpreted as the curator's performance is not good. Even though the curator in carrying out his duties is not equipped with more specific regulated powers, thus creating many opportunities for the curator to suffer the creditors in the legal process of managing and settling bankrupt debtor assets.

## B. Methods

The type of research in writing this journal is prescriptive normative legal research, which according to Peter Mahmud Marzuki is legal research that aims to study the purpose of law, values of justice, validity of the rule of law, legal concepts, and legal norms.<sup>29</sup> Based on Peter Mahmud Marzuki research, it is conducted to generate arguments, theories, or new concepts as prescriptions in solving problems at hand.<sup>30</sup> This argument provides a right or wrong prescriptive based on the law related to the facts or legal action from the results of the research.<sup>31</sup>

Normative legal research, also called a doctrinal legal research, is also known as library research or document study because this research is carried out or aimed only at written regulations or other legal materials. In essence, research is carried out by examining library materials or secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials.

The research aims to assess the principles, legal concepts, doctrines and norms related to the role of the curator in increasing the value of asset recovery through the bankruptcy process. In this study, the author will provide a prescriptive on the role of the curator in increasing the asset recovery value through the bankruptcy process.

The approach used by the author is the statutory approach and the case approach. The statutory approach is an approach taken by reviewing all laws and regulations related to the legal issues being handled. The case approach is an approach that is carried out by examining cases related to the issues at hand which have become court decisions that have permanent legal force.

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<sup>28</sup>Erman Rajagukguk, *Latar Belakang dan Ruang Lingkup Undang-Undang Nomor 4 Tahun 1998 Tentang Kepailitan*, Rudhy A.Lontoh et.al, (ed), *Op.Cit.*, p.181.

<sup>29</sup> Peter Mahmud Marzuki, 2011, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, p 35

<sup>30</sup> Abdulkadir Muhammad, 2004, *Hukum dan Penelitian Hukum*, PT.Citra Aditya Bakti, Bandung, p.57

<sup>31</sup> Johny Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayu Publishing, 2006, p.26

### **C. Result and Discussion**

#### **1. Legal Ratio of Curator's Legal Liability for Errors or Negligence resulting in Losses for Debtors in Legal Process Management and Settlement of Bankrupt Debtor Assets to Support the Increasing Asset Recovery of Bankruptcy**

In general, it is the management and/or settlement of bankrupt assets, therefore the curator must act based on the best interest of creditors, but he must also pay attention to the interests of the bankrupt debtor, these interests should not be completely ignored.<sup>32</sup> The important thing to be considered by the curator in carrying out his duties is that not all authorities can be carried out independently. In fact, it is highly recommended that in all activities the curator is considered important, he must consult with or even with the approval of the supervisory judge, even matters not regulated by law to request consultation and approval of the supervisory judge. The curator in carrying out the duties every three months is obliged to submit a report to the supervisory judge regarding the implementation of his duties that can be seen by everyone free of charge. With the curator's heavy duty described above, in order to prevent the risks, the role or permission of the supervisory judge is absolutely exist, thus if the curator carries out the duties without the permission of the supervisory judge then if there are losses caused by negligence, the loss will be borne personally by the curator.<sup>33</sup>

The curator must not have a conflict of interest in doing the responsible, the curator must be independent, because the large authority of the curator over the bankruptcy asset. The curator must side with the law. In practice, the determination of the curator's name is proposed by the creditor who submits the petition for bankruptcy to the debtor. However, even though it is proposed by the creditor, the curator must be independent because he will be responsible for what he does. In general, the curator has the authority to carry out the management and/or settlement of bankruptcy assets since the bankruptcy is pronounced even though an appeal or judicial review is filed against the decision. Before the debtor is declared bankrupt by the commercial court, it is preceded by a process of application and a decision on the declaration of bankruptcy as regulated in Articles 6 to 11 of Law Number 37 of 2004.

The curator has an important role in managing and settling the assets of the bankrupt debtor by maximizing the assets of the bankrupt debtor so that the debtor's obligations to creditors can be fulfilled. In practice, the curator in carrying out this management and settlement task often own many mistakes and omissions that resulted losses for the debtor which required the curator to be responsible. The ratio of the curator's legal liability for errors and omissions that result in losses for the debtor in the legal process of managing and settling the assets of the bankrupt debtor is as follows:

- a. The curator is the party who manages and settles the assets of the bankrupt debtor with the procedure of appointment by the Commercial Court

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<sup>32</sup>Moh Kurniawan, Tugas Dan Fungsi Balai Harta Peninggalan Semarang Sebagai Kurator Kepailitan Berdasarkan Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang, *Jurnal Daulat Hukum*.Vol. 1. No. 1<sup>st</sup> of March 2018,p.70.

<sup>33</sup>Siti Hapsah Isfardiyana. "Sita umum Kepailitan Mendahului Sita Pidana dalam Pemberesan Harta Pailit". *Jurnal Beranda*. Vol. 3 No. 3. 2016. p.35.



This provision explains that the curator has been given a legal obligation by the commercial court in which the regulation is regulated in the bankruptcy law, namely to manage and settle the assets of the bankrupt debtor, where if they neglect the obligations, they must be responsible for the losses. This is explicitly explained in the provisions of Article 72 of Law Number 37 of 2004 which states that "the curator is responsible for errors/omissions in carrying out management and/or settlement tasks that result in losses for bankrupt assets".

The legal responsibility given by the commercial court to the curator must be carried out as well as possible, because the curator must be responsible for any wrongful actions or omissions that can harm the assets of the bankrupt debtor and the interests of creditors in obtaining settlement of receivables, including the curator cannot prevent the low asset recovery value in the bankruptcy process. Whereas on the other hand, from the perspective of creditors, the recovery value is an indicator of the success or failure of the bankruptcy process. If asset recovery is low, creditors feel that they have only won on paper, so that they are not interested in going through the bankruptcy process to resolve their debt problems. Settlement of bankrupt assets is a fundamental factor in the bankruptcy process. Creditors definitely want to get maximum asset recovery. To prevent the curator from acting arbitrarily on the power he has, the law limits that power by imposing sanctions. The essence of power is the right to impose sanctions. This is as strengthened by Peperzak who argues that there is a legal and power relationship, one of those is by examining the concept of sanctions, namely if there is behavior that does not comply with legal rules, sanction is needed for enforcement of these legal rules. Because sanction is in fact a form of violence, their use requires juridical legitimacy (legal justification) in order to make them legal violence. In order functions properly so that all legal systems can be useful and successful, it is necessary to have powers that provide energy support and protection for the legal system along with sanctions. Based on this provision, if the curator does not carry out his responsibilities in managing and settling the assets of the bankrupt debtor, he will be subject to sanctions.

- b. There is legal uncertainty for creditors in obtaining the repaying debt comes from the bankrupt debtor assets that the management and settlement is carried out by the curator.

In carrying out its duties to manage and settle the assets of the bankrupt debtor, the curator must maximize the value of the bankrupt assets so that it can provide optimal results used in paying off debtors' debts. However, if the curator does not well-responsible the duty maximally, it causes a law uncertainty related to the creditors in obtaining repaying debt that comes from the bankrupt debtor assets in which the management and settlement is carried out by the curator.<sup>34</sup> In practice, many business actors have not yet been interested in taking the bankruptcy route at the Commercial Court as long as the level of asset recovery is low. The inhibiting factors that cause the low level of asset recovery are: (1) lack of transparency and accountability in the bankruptcy process; (2) lack of professionalism, understanding and cooperation from inter-sectoral parties; (3) difficulty in tracking and controlling assets; (4) The allocation and distribution of

<sup>34</sup>Luthvi Febryka Nola, *Kedudukan Konsumen dalam Kepailitan*, Jurnal NEGARA HUKUM: Vol. 8, No. 2, November 2017, p.

bankrupt assets problem; (5) lack of instruments or other legal remedies; and (6) obscurity of several legal and statutory provisions.

Appropriate steps that can be taken by creditors if there is a policy plan or curator's actions that are not in accordance with the wishes of the creditor are regulated in the provisions of Article 77 paragraph 1 of Law Number 37 of 2004 which states that "every creditor, creditor committee, and bankrupt debtor committee can submit letter of objection to the Supervisory Judge against the actions taken by the curator or requesting the Supervisory Judge to issue a warrant so that the curator does certain actions or does not carry out the planned actions." Furthermore, in the provisions of Article 77 paragraph 2, it states that "The Supervisory Judge must submit a letter of objection to the curator no later than 3 (days) after the objection letter is received." and Article 77 paragraph 3 states that "The Curator must respond to the Supervisory Judge no later than 3 (three) days after receiving the objection letter."

- c. There must be a regulation the curator's responsible either the capacity as curator and as personal when an error or negligence in the management and settlement of the assets of the bankrupt debtor occur.

The curator can be sued and must pay compensation for both his capacity as curator and as personal if the negligence and mistake (there is an element of intent) has caused losses to the parties interested in obtaining repayment of the bankrupt debtor assets. As a curator related to the errors and negligences that result in losses to the bankrupt debtor assets, it has been regulated in the provisions of Article 77 of Law Number 37 of 2004. The curator must also be responsible for errors and negligence in carrying out management and/or settlement obligations that result losses and decrease the value of the bankruptcy estate. Based on the provisions of Article 1365 of the Civil Code regarding unlawful acts, the curator can be sued for personal responsibility by the injured parties for the attitude and actions of the curator. Even the curator must be criminally responsible for the attitude and actions.

- d. There is an authority abuse provided by the bankruptcy law by the curator, resulting losses for the debtor

In general, the curator has juridical power or authority to carry out the process of managing and settling the assets of the bankrupt debtor. In practice, the curator often abuses the authority which results losses for the assets of the bankrupt debtor. The curator's legal action is considered by the debtor to decrease the bankrupt assets value, the bankrupt debtor is allowed to submit a letter of application to file a resistance which is shown to the supervisory judge against any actions taken by the curator that are considered detrimental to the bankrupt debtor

If the curator wants to continue the debtor's business in accordance with the business continuity principle contained in the UUK-PKPU, the curator must meet two conditions, namely procedural and substantial conditions.<sup>35</sup> The procedural condition is stipulated in the UUK-PKPU regarding the procedures for a curator in terms of continuing the debtor's business, while the substantial condition is the

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<sup>35</sup> Moch Zulkarnain Al Mufti, *Tanggung Jawab Kurator dalam Penjualan Harta Pailit di Bawah Harga Pasar*, Jurnal Lex Rennainsance 92 No. 1 VOL. 1<sup>st</sup> JANUARY 2016: 92 - 106, p.13.

condition where the task of a curator is to improve the quality of the bankrupt bank or for the benefit of creditors, therefore it is an absolute condition to do so. The action of continuing the business of the bankrupt debtor is when the curator believes and can show that the action of continuing the business is to improve the quality and value of the bankrupt assets which will later benefit the creditors accompanied by the basis that the company is still a going concern..<sup>36</sup>

In practice, the regulation concerning the position of creditors in bankruptcy contains some problems. Based on the legal system theory from Freidman, the legal system is built from 3 sub-systems, namely substance, structure and legal culture. Substantially, the regulation of the creditor's position in bankruptcy has a regulation ambiguity, such as there is no firm statement regarding the position of creditors in the Bankruptcy Law. Regarding the structure, there is an unequal position of consumer and bankruptcy law enforcement officers such as curators, administrators, supervisory judges and other law enforcers. This inequality makes law enforcers free to take actions that harm the interests of creditors so that the term bankruptcy mafia appears. In addition, the supervisory function carried out by the supervisory judge to the curators and administrators is also very minimal. In terms of legal culture, law enforcers have recognized the position of creditors. This can be seen from the acceptance of bankruptcy applications submitted by creditors. However in the decision, the judge has not sided with the creditor. Another problem is that public knowledge about bankruptcy is still minimal, as can be seen from the emergence of the assumption that with bankruptcy, consumers' money will return. The existence of problems related to regulation, law enforcement actions and disappointing bankruptcy results made the dispute resolution process through bankruptcy began to be abandoned and switch to other forms of dispute resolution.

## 2. Curator's Position and Bankruptcy Law

The curator authorizes to manage and settle bankrupt assets since the bankruptcy declaration decision was made, even though an appeal was filed against the decision (Article 16 of Law Number 37 of 2004 concerning Bankruptcy and PKPU). This is a legal consequence of the "immediate" nature of the bankruptcy declaration decision, however it does not mean that the curator can take management and settlement actions at will "bankruptcy law in theory and practice", explaining that in order to take action, the curator must pay attention to, such as:

- a. Is the curator authorized to do that.
- b. Is it the right time to take the action.
- c. Does the action require prior approval or participation permission from certain parties.
- d. Does the action carry out certain procedures.<sup>37</sup>

## D. Conclusion

Basically, the responsibility of the curator in carrying out the management or settlement of bankrupt assets has been regulated in Article 72 of the Bankruptcy Law, namely the curator is responsible for the mistake or negligence that loses the bankrupt

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<sup>36</sup> Nainggolan, Bernard Nainggolan.2014.*Peranan Kurator Dalam Pemberesan Boedel Pailit*.PT Alumni. Bandung, p.85-86.

<sup>37</sup> Serlika Aprita, 2017, *Wewenang dan Tanggungjawab Hukum Kurator dalam Proses Pengurusan dan Pemberesan Harta Debitur Pailit*,CV.Pena Indis, Makasar, p,60.

assets. The explanation of Article 72 of the Bankruptcy Law is said to be quite clear, but up to now there is still no clarity on the limits of errors and negligence. The responsibility of the curator lies in errors and negligence if there is an element of intent or carelessness on the part of the curator in taking actions so that it inadvertently causes losses to the debtor's bankrupt assets which has an impact on decreasing the value of asset recovery.

The legal ratio of the curator's legal liability for errors or omissions resulting losses for the debtor in the legal process of managing and settling bankrupt assets to increase the value of asset recovery is as follows:

- a. The curator is the party who manages and settles the assets of the bankrupt debtor by the appointment procedure decided by the Commercial Court.
- b. There is legal uncertainty for creditors in obtaining repaying debt coming from the bankrupt debtor assets that the management and settlement is carried out by the curator.
- c. There are regulations in the law regarding the legal responsibility of the curator both in the capacity as curator and personally in the event of an error or negligence in the management and settlement of the assets of the bankrupt debtor.
- d. There is an abuse of authority provided by the bankruptcy law for the curator, resulting in losses for the debtor
- e. It must be seen how appropriate the law, customary and social point of view in carrying out certain actions. What is also important in his position as curator, is its relation to the imposition of bankrupt assets with pledges, fiduciary guarantees, mortgages, it is necessary to have approval from Supervisory Judge. This does not mean a limitation on the authority of the curator, but rather a protection against the hypotension of losses which will have an impact on the payment of debtor obligations to creditors.

## References

### Book

- Asikin, Zainal..2001.*Hukum Kepailitan dan Penundaan Pembayaran di Indonesia*, Jakarta:PT Raja Grafindo Persada.
- Aprita, Serlika. 2017, *Wewenang dan Tanggungjawab Hukum Kurator dalam Proses Pengurusan dan Pembersihan Harta Debitor Pailit*,Makasar:CV.Pena Indis.
- Aprita, Serlika 2016, Penerapan Asas Keseimbangan dalam Hukum Kepailitan pada Putusan Pengadilan Niaga, tentang Pembatalan Perdalamaan dalam PKPU (Analisis Putusan Pengadilan Niaga No.01 /PEMBATALAN PERDALAMAAN 2006.PN.Niaga.JKT.PST),Makasar: CV.Pena Indis.
- Aprita,Serlika, 2018, *Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang:Perspektif Teori*, Malang: Setara Press.
- Aprita, Serlika, 2016, *Kumpulan Tulisan Hukum*, Makasar:CV.Pena Indis.
- Aprita, Serlika,2019, *Penerapan Asas Kelangsungan Usaha Menggunakan Uji Insolvensi: Upaya Mewujudkan Perlindungan Hukum Berbasis Keadilan Restrukturitatif*, Jawa Timur: CV.Pustaka Abadi.
- Aprita, Serlika,2019, *Etika Profesi Hukum*, Bandung:PT. Refika Aditama.
- Aprita,Serlika,2019, *Perlindungan Hukum bagi Pemegang Saham Minoritas, Kreditor dan Karyawan atas Akuisisi Perusahaan*, Jawa Timur: CV.Pustaka Abadi.

- Aprita, Serlika, 2019, *Etika Profesi Kurator*, Jawa Timur: CV. Pustaka Abadi.
- Budiardjo, Miriam. 2008. *Dasar-Dasar Ilmu Politik*, Jakarta: PT. Gramedia Pustaka Utama.
- Fuady, Munir. 2010. *Hukum Pailit dalam Teori dan Praktek*, Edisi Kedua, Bandung: PT. Citra Aditya Bakti.
- Irawan, Bagus. 2007. *Aspek-Aspek Hukum Kepailitan, Perusahaan dan Asuransi*, Bandung: PT. Alumni.
- Ibrahim, Johnny, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayu Publishing.
- Hartini, Rahayu. 2007. *Hukum Kepailitan*, Malang: Universitas Muhamadiyah Malang Press.
- Jono. 2008. *Hukum Kepailitan*, Jakarta: Sinar Grafika.
- Kristianto, Fennieka. 2009. *Kewenangan Menggugat Pailit dalam Perjanjian Kredit Sindikasi*, Jakarta: Minerva Athena Pressindo.
- Manan, Bagir. 2001. *Mengenai PERPU Kepailitan*, Rudhy A. Lontoh et al, (ed), dalam *Penyelesaian Utang Piutang Melalui Pailit atau Penundaan Kewajiban Pembayaran Utang*. Bandung: Alumni.
- M.H. Randa Puang, Victorianus. 2011. *Penerapan Asas Pembuktian Sederhana dalam Penjatuhan Putusan Pailit*, Jakarta: PT. Sarana Tutorial Nurani Sejahtera (SATU NUSA), Jakarta.
- Muljadi, Kartini dan Gunawan Widaja. 2004. *Pedoman Menangani Perkara Kepailitan*, Jakarta: PT. Raja Grafindo Persada.
- Marzuki, Peter Mahmud Marzuki, 2011, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group.
- Muhammad, Abdulkadir, 2004, *Hukum dan Penelitian Hukum*, Bandung: PT. Citra Aditya Bakti.
- Nating, Imran. 2004. *Peranan dan Tanggung Jawab Kurator dalam Pengurusan dan Pemberesan Harta Pailit*, Jakarta: PT. Raja Grafindo Persada.
- Rasyidi, Lili. 1990. *Dasar-Dasar Filsafat Hukum*, Jakarta: Citra Aditya Bakti.
- Sutendi, Adrian. 2009. *Hukum Kepailitan*, Bogor: Ghalia Indonesia.
- Suryana, Daniel. 2007. *Hukum Kepailitan: Kepailitan terhadap Badan Usaha Asing oleh Pengadilan Niaga Indonesia*, Bandung: Pustaka Sutra.
- Sastrawidjaja, Man S. 2010. *Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang*, Bandung: PT. Alumni.
- Subhan, M. Hadi. 2009. *Hukum Kepailitan: Prinsip, Norma dan Praktik di Peradilan*, Jakarta: Kencana.
- Soekanto, Soekanto, dan Sri Mamudji, 2004, *Penelitian Hukum Normatif*, Cetakan ke-8, Jakarta: PT. Raja Grafindo Persada.
- Suyatno, R. Anton. 2012. *Pemanfaatan Penundaan Kewajiban Pembayaran Utang Sebagai Upaya Mencegah Kepailitan*. Jakarta: Kencana.
- Sunarmi. 2010. *Prinsip Keseimbangan dalam Hukum Kepailitan di Indonesia "A Critical Review on Bankruptcy Law: Towards The Bankruptcy Laws That Protect Creditor and Debtor Interest"*. Edisi 2. Jakarta: PT. Sofmedia.
- Sjahdeini, Sutan Remy. 2002. *Hukum Kepailitan "Memahami Undang-Undang No. 37 Tahun 2004 tentang Kepailitan"*, Jakarta: PT. Pustaka Utama Grafiti.
- Sunarmi. 2010. *Hukum Kepailitan*, Edisi 2, Jakarta: PT. Sofmedia.
- Usman, Rachmawadi. 2004. *Dimensi Hukum Kepailitan di Indonesia*, Jakarta: Gramedia Pustaka Utama.
- Waluyo, Bernadette. 1999. *Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang*, Bandung: CV. Mandar Maju.

- Yahanan, Annalisa. 2007. *Kepailitan dan Penundaan Kewajiban Pembayaran Utang: Alternatif Penyelesaian Utang Piutang*, Palembang: UNSRI.
- Yani, Ahmad dan Gunawan Widjaja. 2002. *Seri Hukum Bisnis Kepailitan*, Jakarta: PT. Raja Grafindo Persada.
- Yuhassarie, Emmy dan Tri Harnowo. 2005. *Pendahuluan: Pemikiran Kembali Hukum Kepailitan Indonesia dalam Emmy Yuhassarie dan Tri Harnowo (Tim Editor), Undang-Undang Kepailitan dan Perkembangannya: Prosidings Rangkaian Lokakarya Terbatas dan Masalah-Masalah Kepailitan dan Wawasan Hukum Bisnis Lainnya*, cet. 2. Pusat Pengkajian Hukum, Jakarta.
- Widjaja, Gunawan. 2004. *Tanggung Jawab Direksi atas Kepailitan Perseroan*, Jakarta: Rajawali Pers.
- Widjaja, Gunawan. 2009. *Resiko Hukum dan Bisnis Perusahaan Pailit*, Jakarta: Forum Sahabat.

### **Scientific Journals, Papers, and Dictionaries**

- Al Mufti, Moch Zulkarnain. *Tanggung Jawab Kurator dalam Penjualan Harta Pailit di Bawah Harga Pasar*, Jurnal Lex Rennainsance 92 No. 1 VOL. 1 JANUARI 2016: 92 -106.
- Barkatullah, Abdul Halim. "Budaya Hukum Masyarakat dalam Perspektif Sistem Hukum". *Jurnal UKSW*. 2013.
- Dani K. 2002. *Kamus Lengkap Bahasa Indonesia*, Putra Harsa, Surabaya.
- Isfardiyana, Siti Hapsah. "Sita umum Kepailitan Mendahului Sita Pidana dalam Pemberesan Harta Pailit". *Jurnal Beranda*. Vol. 3 No. 3. 2016.
- Moh Kurniawan. *Tugas Dan Fungsi Balai Harta Peninggalan Semarang Sebagai Kurator Kepailitan Berdasarkan Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang*. *Jurnal Daulat Hukum*. Vol. 1. No. 1 Maret 2018.
- Muryanti, Dewi Tuti. Dhian Septiandani. Efy Yulistiyowati. *Pengaturan Tanggung Jawab Kurator Terhadap Pengurusan dan Pemberesan Harta Pailit Dalam Kaitannya Dengan Hak Kreditor Separatis*. *Jurnal Dinamika Sosial Budaya*, Volume 19, Nomor 1, Juni 2017.
- Martina, Ni Wayan Umi, *Peranan Kurator dalam Kepailitan terhadap Nasabah Bank*, *Jurnal Kertha Wicaksana*, Vol. 21 No. 1 2017.
- Mahroe'nnisa, Yennie Agustin. 2009. *Tinjauan Yuridis Keberadaan dan Kompetensi Pengadilan Niaga Dalam Masalah Kepailitan*, *Artikel Jurnal Ilmu Hukum, Unila*, dalam [Blog.unila.ac.id](http://blog.unila.ac.id) weblog, diakses pada 2 Oktober 2019.
- Nola, Luthvi Febryka *Kedudukan Konsumen dalam Kepailitan*, *Jurnal NEGARA HUKUM: Vol. 8, No. 2, November 2017*.
- Nasution, Iskandar Syahputra, *Kewenangan Pengajuan Pailit terhadap Perusahaan Asuransi*, *Tesis*, dalam [HYPERLINK http://www.scribd.com/doc/57254996/ISNANDAR-SYAHPUTRA-NASUTION](http://www.scribd.com/doc/57254996/ISNANDAR-SYAHPUTRA-NASUTION) http://www.scribd.com/doc/57254996/ISNANDAR-SYAHPUTRA-NASUTION, diakses pada 2 Oktober 2019.
- Octaviana, Abigael Kristianti. "Kajian Yuridis Perlindungan Hak Konsumen terhadap Perusahaan Pailit (Studi Kasus Ganti Rugi Tiket Pesawat Maskapai Batavia Air)". *E-Jurnal Gloria Yuris*. Vol. 2 No. 3 Tahun 2014.
- Pramudya, Kelik. *Pengadilan Niaga sebagai Lembaga Penyelesaian Perkara Kepailitan*, *Artikel*, dalam <http://click-gtg.blogspot.com/2009/02/pengadilan-niaga-sebagai-lembaga.html>, diakses pada 2 Oktober 2019.

- Rumiasih, Trias. "Analisis Yuridis Terhadap Peraturan Perlindungan Hukum Bagi Konsumen Dalam Perkara Kepailitan Perusahaan Penerbangan". *Jurnal Brawijaya*. Malang: FH Universitas Brawijaya, 2014.
- Ratnawati, Theresia Endang. "Kajian terhadap Proses Penyelesaian Perkara Kepailitan dan Penundaan Kewajiban Pembayaran Utang di Pengadilan Niaga Jakarta Pusat", *Jurnal Dinamika Hukum*, Vol. 9 No. 2 Tahun 2009.
- Sembiring, **Sentosa**. Eksistensi Kurator Dalam Pranata Hukum Kepailitan. *Jurnal Hukum Acara Perdata ADHAPER* Vol. 3, No. 1, Januari – Juni 2017.
- Subroto, Agus. 2005. Undang-Undang Kepailitan dan Perkembangan Hukum Kepailitan Menyongsong Era Pasar Bebas, *Makalah* disampaikan pada Diskusi Hukum "Konsistensi Undang-Undang Kepailitan dan Implikasinya Terhadap Perkembangan Dunia Usaha Khususnya di Sumatera Selatan", Mahameru Room Swarna Dwipa Hotel, Palembang.
- Situmorang, Mosgan. 1999. Tinjauan Atas Undang-Undang Nomor 4 Tahun 1998 Tentang Penetapan Perpu Nomor 1 Tahun 1998 menjadi Undang-Undang", *Majalah Hukum Nasional* Nomor 1, Jakarta.
- Tumbuan, Fred B.G. "Menelaah Konsep Dasar dan Aspek Hukum Kepailitan", *Proceeding Rangkaian Lokakarya Terbatas Masalah-Masalah Kepailitan dan Wawasan Hukum Bisnis Lainnya, Proceeding Kepailitan dan Transfer Asset secara Melawan Hukum*, (Bogor : 20 -21 Juli 2004, Pusat Pengkajian Hukum, Jakarta, 2005), hlm. 103. Lihat lebih lanjut Pasal 56 UU No. 37 Tahun 2004 .
- Wignjosumarto, Parwoto. 2003. *Hukum Kepailitan Selayang Pandang " Himpunan Makalah"*, PT. Tata Nusa, Jakarta.

### Internet

*Eks Karyawan Adam Air Tuntut Hakim Ganti Kurator*, dalam <http://www.tempo.co/read/news/2009/01/12/083154829/Eks-Karyawan-Adam-Air-Tuntut-Hakim-Ganti-Kurator>, diakses pada 2 Oktober 2019.

### Law

Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang.