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ANALYSIS OF LEGAL DISPARITIES BETWEEN TYPES OF CREDITORS IN THE SETTLEMENT OF BANKRUPT ASSETS: A STUDY OF THE DECISION IN CASE NO. 37/PDT.SUS-PKPU/2023/PN.NIAGA SEMARANG

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Abstract

In the bankruptcy process to resolve the problem of the debtor's inability to fulfill its debt obligations to creditors in full, complex dynamics arise between the interests of the creditors. Settlement through bankruptcy cannot guarantee the fulfillment of all creditors' rights and allows for inequality experienced by some creditors. This study aims to determine the factors causing inequality or disparity in legal treatment for separated, preferred. Concurrent creditors settle bankrupt assets based on court practice and choose to improve the formulation of bankruptcy law in Indonesia to ensure justice and legal certainty for all types of creditors in settling the assets of bankrupt debtors. This study uses a normative juridical research method, namely a kind of research that focuses on examining the application of rules or norms in applicable law. The results show concurrent creditors do not receive their rights as they should in bankruptcy settlement. The curator prioritizes creditors with privileged and priority rights, such as preferred and secured creditors, in settling bankruptcy assets. Furthermore, the bankruptcy law must be updated with policies to resolve debt issues that protect creditors in settling debtor obligations based on justice and legal certainty.

Keywords: Bankruptcy, Disparity, Creditors, Concurrent, Separatist, Preferential.

INTRODUCTION

Bankruptcy is a way out of the debt problem that is pressing on a debtor, who can no longer pay his debts to his creditors (Shubhan, 2014). In the bankruptcy process to resolve the problem of the debtor's inability to fulfill his debt obligations in full to the creditors, a complex dynamic arises between the interests of the creditors (Qodrunnada, Gultom, & Sudaryat, 2025). Creditors are divided into several groups in dividing bankruptcy assets, namely preferred creditors, secured creditors, and concurrent creditors (Nugroho, 2018).

In a legal relationship of debt, the law provides legal protection to creditors through the provisions of the Civil Code (KUH Perdata) article 1131, which states that all objects, whether movable, immovable, existing, or still existing, are used as collateral for the repayment of a debtor's obligation (Putra, 2014). The debtor's responsibility is based on the provisions of Article 1131 of the Civil Code, which ultimately leads to the bankruptcy institution. Because the bankruptcy institution regulates whether a debtor cannot pay his debts, as well as the debtor's responsibility within his authority over the assets he still owns or will own (Astiti, 2014). Furthermore, Article 1132 of the Civil Code stipulates the principle of equal position for creditors, that the position between creditors and debtors is the same.

The enactment of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Law No. 37 of 2004) aims to prevent conflicts between creditors and guarantee legal protection and legal certainty for creditors in the settlement of debts. The consequences of having many creditors from one debtor require a proportional and fair distribution for all creditors. It is usually based on the creditor's ranking and the amount of the debtor's receivables owed to each creditor. In addition, the right to collateral will remain separate from the debtor's general debt. The collateral is a property right that remains attached to the collateralized item, and the creditor who owns it has the right to it.

Settlement through bankruptcy institutions is expected to provide security and guarantee the implementation of the interests of the interested parties, namely, debtors and creditors. However, debt settlement through bankruptcy institutions cannot guarantee the interests of the parties and allows for the occurrence of inequality felt by several creditors, as in decision number 37/Pdt.Sus-PKPU/2023/PN Niaga Smg, which states that the respondent for Suspension of Debt Payment Obligations (PKPU)/PT. ABIOSO BATARA ALBA is bankrupt with all its legal consequences. The decision explains that the creditors who have submitted claims are: 1. KPP Pratama Boyolali (preferred creditor); 2. Public Service Agency of the Environmental Fund Management Agency of the Ministry of Finance (preferred and separatist creditor); 3. PT. Bank Negara Indonesia Tbk (separatist creditor); 4. PT. Intanwijatya Internasional Tbk (concurrent creditor); 5. PT. Rudolf Polymers Indonesia (concurrent creditor).

The management and settlement of all debtor assets and liabilities are under the supervision of the Supervisory Judge. Bankruptcy assets should be distributed in proportion to the claims of each creditor. In this regard, Law No. 37 of 2004 provides protection and fair and balanced treatment to all parties involved, namely creditors, debtors, and the public. However, in practice, creditors still experience inequalities in repaying their receivables.

METHOD

This study includes normative juridical research, which examines the application of rules or norms in applicable positive law. This type of normative juridical research is conducted by reviewing and analyzing the substance of laws and regulations on the main problems or legal issues and their consistency with existing legal principles, then connecting them with the problems to be discussed in this research report (Ibrahim, 2008).

The research materials that will be used to support this research are data obtained from library research, official documents, books, literature, notes, and laws and regulations related to the research object. Legal research sources can be divided into primary, secondary, and tertiary legal materials. Analysis of the results of this research is carried out by criticizing, supporting, or providing comments. The research results can be concluded with one's own thoughts and the help of library research.

RESULTS AND DISCUSSION

Factors Causing Inequality or Disparity in Legal Treatment of Separatist, Preferred, and Concurrent Creditors in the Settlement of Bankrupt Assets Based on Court Practices

Bankruptcy is a joint effort to obtain payment from all creditors relatively and orderly, according to the size of each creditor's receivables (Saliman, Jalis, & Hermansyah, 2004). Bankruptcy law recognizes three types of creditors, namely:

1. Preferred creditors have priority rights due to the nature of their receivables, which are given a special status by law. Therefore, these creditors have the right to receive their receivables first from the proceeds of the settlement of the bankruptcy estate (Slamet, 2016). For example, tax bills are a privilege that precedes secured and concurrent creditors. The legal basis for the types of preferred creditors is regulated in Article 1139 in conjunction with Article 1149 of the Civil Code, namely the division of special preferred and general preferred creditors. In addition to the division according to the Civil Code, the mention of preferred creditors is also found in Law Number 13 of 2003 concerning Manpower and Law Number 28 of 2007 concerning General Provisions and Tax Procedures.
2. Separatist creditors hold special collateral rights, in the form of material collateral, and can act independently. Separatist creditors are not affected by the debtor's bankruptcy declaration decision, meaning their execution rights remain in effect as if the debtor were not in bankruptcy (Nating, 2004). Creditors in this group can sell the collateral themselves, as if there were no bankruptcy. They take the amount of their receivables from the sale proceeds, while any remaining balance is deposited into the curator's cash as bankruptcy property. Conversely, if the proceeds from the sale are insufficient, the creditor can include the remaining balance as a competing creditor for unpaid claims.
3. Concurrent creditors are not classified as secured or with preferential rights, meaning they do not have any property rights or preferential rights prioritized by law. These concurrent creditors will receive their receivables after secured and preferred creditors collect theirs. In this case, these concurrent creditors will receive the remaining proceeds from the settlement of the bankruptcy estate.

The unequal position of concurrent creditors in settling bankrupt assets is also evident in decision number 37/Pdt.Sus-PKPU/2023/PN Niaga Smg, which states that the respondent for Suspension of Debt Payment Obligations (PKPU)/PT. ABIOSO BATARA ALBA is bankrupt with all its legal consequences. The decision explains that the creditors who have submitted claims are: 1. KPP Pratama Boyolali (preferred creditor); 2. Public Service Agency of the Environmental Fund Management Agency of the Ministry of Finance (preferred and separatist creditor); 3. PT. Bank Negara Indonesia Tbk (separatist creditor); 4. PT. Intanwijatya Internasional Tbk (concurrent creditor); 5. PT. Rudolf Polymers Indonesia (concurrent creditor).

The number of claims from each creditor during the claim submission period, as stipulated in the Supervisory Judge's Decision Number 37/Pdt.Sus PKPU/2023/PN.Niaga.Smg. Dated November 29, 2023, is as follows:

1. KPP Pratama Boyolali, as the preferred creditor, submitted a claim for Rp. 625,930,683, - (six hundred twenty-five million nine hundred thirty thousand six hundred eighty-three rupiah).
2. PT. Public Service Agency of the Ministry of Finance's Environmental Fund Management Agency, as the preferred and separate creditor, submitted a claim for Rp—61,673,006,054.17 (sixty-one billion six hundred seventy-three million six thousand fifty-four rupiah and seventeen cents).
3. PT. Bank Negara Indonesia. Tbk, as a separatist creditor, submitted a claim for Rp. 17,665,161,040, - (Ten billion six hundred thirty-six million four hundred seventy-two thousand eight hundred fifty-eight-point seventy-two rupiah).
4. PT. Intanwijaya Internasional. Tbk, as a concurrent creditor, submitted a claim for Rp. 4,358,288,842, — (four billion three hundred fifty-eight million two hundred eighty-eight thousand eight hundred and forty-two rupiah) through its attorney.
5. PT Rudolf Polymers Indonesia, as a concurrent creditor, submitted a claim for Rp. 303,446,000 (three hundred three million four hundred and forty-six thousand rupiah) through its attorney.

In the process of settling bankrupt assets, as per the list of fixed receivables acknowledged by PT Abioso Batara Alba (in bankruptcy) dated November 13, 2024, it is described as follows:

1. Staff and production employees of PT Abioso Batara Alba (263 people) are preferred creditors with a total receivable of Rp. 2,100,833,930, -
2. Boyolali Primary Tax Service Office, as a preferred creditor with a total receivable of Rp. 625,930,683, -
3. PT Bank BNI Tbk, as a separatist creditor with a total receivable of Rp. 17,665,161,040, -
4. The Ministry of Finance's Public Service Agency for Environmental Fund Management, as a separatist creditor with a total receivable of Rp. 56,917,892,778.31, -
5. PT BNI Multifinance, as a concurrent creditor, has total receivables of Rp. 753,401,903, -
6. PT Intanwijaya Internasional, as a concurrent creditor with a total receivable of Rp. 4,358,288,842, -
7. PT Rudolf Polymers Indonesia, as a concurrent creditor with a total receivable of Rp. 303,446,000, -

The total fixed receivables of PT Abioso Batara Alba (in bankruptcy) amounted to Rp. 82,724,955,176.31, -. Meanwhile, the value of the land, building, and machinery objects from the bankruptcy estate is the market value of Rp. 36,207,000,000, -. Thus, the bankruptcy estate of PT Abioso Batara Alba (in bankruptcy) cannot be sufficient to pay off all receivables from creditors. Therefore, there will be an imbalance in creditors' rights, especially for concurrent creditors whose position in obtaining receivable payments is below that of preferred and separate creditors.

Differences in the status of creditors, including concurrent creditors, are inseparable from applicable legal provisions. The Civil Code regulates the legal basis for these differences in creditor status in bankruptcy.

1. Article 1131 of the Civil Code stipulates that: "All property belonging to the debtor, whether movable or immovable, whether existing or new, shall be collateral for all personal obligations."
2. Article 1132 of the Civil Code stipulates that: "The object becomes a joint guarantee for all those who have credit with it, the income from the sale of the object is divided according to the balance according to the size of each person's debt, unless there are valid reasons among the creditors for priority."
3. Article 1133 of the Civil Code stipulates, "The right to priority among creditors is based on privileges, pledges, and mortgages. Pledges and mortgages are discussed in Chapters 20 and 21 of this book."
4. Article 1134 of the Civil Code stipulates: "A privilege is a right granted by law to a creditor so that his level is higher than that of other creditors, solely based on the nature of his debt. Pawns and mortgages are higher than privileges, except where the law determines otherwise."
5. Article 1135 of the Civil Code stipulates that " privileged creditors' levels are regulated according to the various natures of their privileges."
6. Article 1139 of the Civil Code stipulates that: "Receivables that are given priority over particular objects are:
 - a. Legal costs incurred solely due to a judgment to auction off a movable or immovable object. These costs are paid from the proceeds from the object's sale before all other privileged receivables, even before pawns and mortgages.
 - b. Rent for immovable property, repair costs that are the responsibility of the tenant, along with everything related to the obligation to fulfill the rental agreement;
 - c. Unpaid purchase price of movable objects;
 - d. Costs incurred to save an item;
 - e. The cost of working on an item is still due to a craftsman.
 - f. What a lodging house operator has handed over as such to a guest;
 - g. Freight charges and additional costs;
 - h. What must be paid to masons, carpenters, and other artisans for the construction, additions, and repairs of immovable objects, provided that the debt is not older than three years and the ownership of the plot in question remains with the debtor;
 - i. Compensation and payment must be borne by employees who hold a general position, due to all negligence, errors, violations, and crimes committed."

7. Article 1149 of the Civil Code BW stipulates that: "Credits for all movable and immovable assets are generally those mentioned below, and are collected in the following order:
- a. Court costs arising solely from the sale of goods, the implementation of a decision regarding claims regarding ownership or control, and the saving of property take precedence over pledges and mortgages.
 - b. Burial costs, without prejudice to the Judge's authority to reduce them, if the costs are excessive;
 - c. All final medical expenses;
 - d. The wages of workers from the previous year and what is still to be paid for the current year, as well as the amount of wage increase according to Article 160 q; the amount of labor expenses incurred/made for the employer; the amount still to be paid by the employer to the worker based on Article 1602 v paragraph four of this Civil Code or Article 7 paragraph (3) "Labor Regulations in Plantation Companies"; the amount still to be paid by the employer at the end of the employment relationship based on Article 1603 s bis to the worker; the amount still to be paid by the employer to the family of a worker due to the death of the worker based on Article 13 paragraph (4) "Labor Regulations in Plantation Companies"; what 45 based on the "1939 Accident Regulations" or "1940 Crew Accident Regulations" still has to be paid to the worker or crew member or their heirs along with debt claims based on the "Regulations on the Repatriation of Workers who are accepted or deployed Abroad";
 - e. Receivables due to the delivery of food ingredients, made to the debtor and his family during the last six months;
 - f. Receivables of boarding school entrepreneurs for the last year;
 - g. Debts of children who are still minors or under the custody of their guardians or guardians in connection with their management, insofar as they cannot be collected from mortgages or other guarantees that must be made according to Chapter 15 of the First Book of this Civil Code, as well as allowances for maintenance and education that parents still owe for their legitimate children who are still minors."

Based on the provisions above, creditors are classified into 3 three types, namely, separatist creditors (priority rights), preferred creditors (privileged rights), and concurrent creditors. Separatist creditors can act alone to execute their rights when bankruptcy occurs as if bankruptcy had not occurred, that is why it is said to be separatist which has the connotation of "separation", separatist creditors are regulated in article 55 paragraph (1) of Law No. 37 of 2004: "By continuing to pay attention to the provisions as included in article 56, article 57, and article 58, every creditor holding a pledge, fiduciary guarantee, security right, mortgage, or collateral right on other differences, can execute their rights as if bankruptcy had not occurred."

However, the following article actually provides a suspension of execution of the rights of separatist creditors in Article 56 paragraph (1) which reads: "The execution rights of creditors as referred to in Article 55 paragraph (1) and the rights of third parties to claim their assets which are under the control of the bankrupt debtor or curator, are suspended for a maximum period of 90 (ninety) days from the date the bankruptcy declaration decision is pronounced."

Preferred creditors have a special position, meaning they have the right to receive payment first from the proceeds of the sale of bankrupt assets. The special rights referred to are contained in Article 1134 of the Civil Code: "A special right is a right granted to a person who is a creditor so that his level is higher than that of other creditors, solely based on the nature of his debt."

In the employment law, it also mentions preferential creditors, namely in Article 95 paragraph (4) regarding the rights of workers' wages that have not been paid and tax debts contained in Article 21 paragraph (1), (2), (3), (3a), (4), and (5) of the tax law, tax debts and workers' wage debts that have not been paid are included in preferential creditors in order to protect the interests of the workers themselves from legal uncertainty regarding the payment of their wages. If examined sociologically, of course, to protect the company itself due to strikes and worker riots, which of course threaten the stability of the company itself, so that the bankrupt company continues to operate, on the other hand, tax debts are included as preferential creditors to protect the rights of the State as a tax recipient.

Furthermore, concurrent creditors as creditors who are not included in the separatist creditors and preferred creditors, the settlement of their receivables is also paid from the remaining sales or auctions of bankrupt assets after the separatist and preferred creditors take their rights, Concurrent creditors also have the same rights and position as other creditors over the debtor's bankrupt assets, both existing and future, after previously being reduced by the obligation to pay debts to creditors holding collateral rights and creditors with privileged rights professionally according to the ratio of the amount of receivables of each concurrent creditor (sharing *pari passu pro rate parte*) (Tejaningsih, 2016).

Fellow concurrent creditors have the same status and are entitled to receive the proceeds from the sale of the debtor's assets, both existing and future. This distribution is made after proportionally deducting the payment obligations to secured and preferred creditors based on the ratio of the receivables of each concurrent creditor.

Bankruptcy is a manifestation of implementing the principles of *paritas creditorium* and *pari passu prorata parte*. Based on these two principles, creditors have equal standing among other creditors and have the same rights to receive repayment of their receivables. Furthermore, the debtor's assets declared bankrupt must be distributed proportionally unless the law requires priority. Therefore, creditors should

not be able to compete with each other over the distribution of assets of a bankrupt debtor because each has an equal position to receive repayment and its distribution according to their respective proportions.

Philosophically, bankruptcy is used to avoid separate seizures or executions by creditors, so creditors collect or seize the debtor's assets together. Then, the results of collecting or seizing the debtor's assets are divided according to the creditors' claims to the debtor. In this case, bankruptcy is present to guarantee the rights of creditors to the assets of the bankrupt debtor. Likewise, concurrent creditors have the right to receive repayment from the settlement of the debtor's bankrupt assets and the right to repayment obtained by other creditors, both separatist and preferred creditors.

The Bankruptcy Law Formulation in Indonesia Has Been Improved to Ensure Justice and Legal Certainty for All Types of Creditors in the Process of Settlements of Bankrupt Debtors' Assets

A statutory regulation always contains legal principles that form the basis for its formation. Legal principles can be interpreted as the "heart" of legal regulations (Rahardjo, 2012), so legal principles are needed to understand a legal regulation. In law, 3 three principles are fundamental values, namely Justice (Gerechtigkeit), Benefit (Zweckmassigkeit), and Legal Certainty (Rechtssicherheit). The legal certainty principle protects justice seekers against arbitrary actions, which means that a person will and can obtain benefits from something expected in certain circumstances (Mertokusumo, 1993).

The function of law is to regulate the relationship between the State or society and its citizens, and the relationships between these citizens, so that life in society runs smoothly. Means that the task of law is to achieve legal certainty (for order) and justice in society. Legal certainty requires the creation of general regulations or generally applicable legal principles. These rules must be firmly enforced and implemented to create a safe and peaceful societal atmosphere. For this purpose, these legal principles must be known with certainty in advance. Therefore, legal principles that are declared retroactive often create legal uncertainty. Legal certainty does not necessarily mean that all regions of the country have only one type of regulation. The embodiment of legal certainty is regulations from the central government that apply generally throughout the country (Soekanto, 1983).

Justice is a harmonious state that brings peace to the hearts of people, which, if disturbed, will cause turmoil. Simply put, justice always contains an element of appreciation. Humans have carried the sense of justice since childhood; daily experiences gradually raise an awareness of human justice, with the benchmark that those who do good must receive grace and those who do wrong must receive punishment commensurate with themselves receiving appropriate appreciation from other groups. In contrast, each group does not feel disadvantaged by the actions or activities of other groups (Soekanto, 1983).

Legal certainty and justice are two mutually supportive factors in maintaining harmony between interests within society. It is a natural state of affairs, as the realization of societal welfare cannot be

separated from a sense of peace and order within society. A society in transition requires order to complete the transition period; however, order alone can give rise to a state of power. This order should be based on recognizing human dignity as citizens, which is realized in justice (Krisnajadi, 1989).

Legal instruments should be a means of reform and community development. Furthermore, the hope is that, when linked to the Bankruptcy Law, this will contribute to societal reform and resolve debt issues (Kusumaatmadja, 2006). Meanwhile, the purpose of the bankruptcy law created by the government is good and has a noble goal: to create a sense of justice for all parties. The objectives of bankruptcy law are as follows (Yuhelson, 2019):

1. If the debtor does not pay his debts voluntarily, even though a court decision has sentenced him to pay them, or if the debtor cannot pay his debts in full, all the debtor's assets will be managed and settled through confiscation and sale. The settlement results will be handed over to all creditors without exception, based on their respective receivables, unless provisions are made for the first payment according to the law.
2. In order to avoid creditors, they should ask for payment of their receivables from debtors.
3. Avoiding creditors who try to gain special rights to claim their rights by carrying out settlements independently or selling the debtor's assets without considering other creditors.
4. Besides preventing fraud by creditors, bankruptcy law also aims to prevent fraud by debtors. This fraud occurs when a debtor absconds with or even removes all their assets to avoid their responsibilities to creditors. The debtor's actions hide all their assets, leaving the creditors with nothing in the settlement.
5. The next goal is to punish the management, in this case, the company's board of directors, whose negligence caused the company's financial distress, leading to insolvency. Insolvency is when a debtor cannot pay its obligations (debts).

In relation to bankruptcy law, Article 16 paragraph (1) of Law No. 37 of 2004 stipulates that the curator is authorized to manage and/or settle the bankrupt's assets from the date the bankruptcy decision is pronounced, even if an appeal or judicial review is filed against the decision. The meaning of "settlement" is the use of assets to pay or settle debts.

Bankruptcy law introduces the principle of *pari passu pro parte*, which means that all of a debtor's assets are joint collateral for his creditors, and the proceeds will be distributed equally (proportionally) to his creditors. This principle only provides proportional justice according to the amount of the debt; however, injustice will arise when the debtor's assets are less than the debt to be paid to the creditors. The creditors will certainly compete to fulfill their receivables, which can lead to disputes among the creditors.

In addition, bankruptcy law introduces the principle of structured creditors in classifying debtors into bankruptcy cases. The structured creditor principle classifies and groups various types of debtors according to their respective classes: secured creditors, preferred creditors, and concurrent creditors.

The problem that arises later in the process of settling bankrupt assets is that if the amount of debt is greater than the bankrupt assets, especially after the separatist creditors and preferred creditors have taken their rights, then indirectly the concurrent creditors' receivables will not be paid in full, even though bankruptcy law actually contains the principle of creditorium parity, which means that the position of creditors is the same in terms of payment of their receivables.

It is a weakness of bankruptcy law in protecting the rights of concurrent creditors, even though long before the debtor was declared bankrupt, the debt agreement between the concurrent creditor and the debtor was also carried out legally and bindingly, even though different rights, such as mortgage rights, fiduciary rights, and mortgages, did not guarantee it. It is where the active role of concurrent creditors in overseeing the settlement of bankrupt assets ensures that the payment of their receivables is fulfilled, and they do not immediately enter into a debt agreement with the debtor if it is highly likely that the debtor company is suspected of having problems.

Law No. 37 of 2004 explicitly states that bankruptcy is a general seizure covering all of the debtor's assets, the management and settlement of which is carried out by a curator. This general seizure applies to all the debtor's assets, including those existing when the bankruptcy declaration is issued, and assets acquired during the bankruptcy.

Seizure of all of a debtor's assets is part of estate management (Lashko, 2006). It is a systematic method for managing a debtor's assets while awaiting bankruptcy proceedings. It is to prevent, through regulatory means, fraudulent transactions or acts in transferring, collecting, managing, and distributing assets to creditors. Seizure of all of a debtor's assets after a bankruptcy declaration aims to prevent the debtor from engaging in actions that could harm the interests of their creditors (Anisah, 2008).

Concurrent creditors are creditors who do not have special rights and are not mortgage holders, and their respective positions are equal. Debt payments to concurrent creditors are based on a balance called "pari passu pro rata parte" payments. This equal payment also applies if the verification reveals that the assets are less than the debt.

Legal protection for unsecured creditors can be provided during the settlement phase and by suspending debt payments. However, these settlement efforts must be initiated after obtaining the creditors' consent, which can be problematic if the creditors do not consent.

Efforts to postpone debt repayment obligations have been delayed for only 270 days, which is very short for bankrupt debtors to settle or pay their debts to all creditors. In its implementation stage, Law No. 37 of 2004 has not realized legal certainty, benefit, and justice for interested parties, considering the

interests of concurrent creditors who have not been covered in obtaining the right to repayment of their receivables.

Based on these provisions, in order to obtain the fulfillment of their rights to the assets of debtors who have been declared bankrupt, several provisions in Law No. 37 of 2009 that contain weaknesses need to be amended to provide justice and legal certainty for concurrent creditors in settling debtor obligations, as follows (Repulis, 2023):

- 1) Article 170 paragraph (3) of Law No. 37 of 2004 stipulates that: "The court has the authority to grant leniency to the debtor to fulfill his obligations no later than 30 (thirty) days after the decision granting said leniency is pronounced."

The weakness of Article 170 paragraph (3) of Law No. 37 of 2004 is that the grace period given to debtors to fulfill their obligations is undoubtedly an advantage or good opportunity for debtors. However, in this case, there is no affirmation in the form of protection for fulfilling creditor rights if the debtor is negligent in fulfilling their obligations. In this case, it does not provide balance when treating debtors and creditors before the law.

It would be better if the provisions were changed to State that the court has the authority to grant leniency to debtors to fulfill their obligations no later than 30 (thirty) days after the granting of leniency is announced, and this needs to be balanced by providing reasonable protection to creditors, namely in the form of imposing strict sanctions on debtors if the debtor is negligent in fulfilling their obligations even though leniency has been granted in fulfilling their obligations.

- 2) Article 222 paragraph (1) of Law No. 37 of 2004 stipulates that: "Postponement of Debt Payment Obligations is submitted by Debtors who have more than 1 (one) Creditor or by Creditors."

The weakness of Article 222 paragraph (1) of Law 37 of 2004 is that debtors are more aware of their financial condition. It would be better if this provision stipulated that creditors with due or collectible receivables submit a Suspension of Debt Payment Obligations (PKPU).

Based on the above review of Article 170 paragraph (3) and Article 222 paragraph (1) of Law No. 37 of 2007, changes can be made in order to protect concurrent creditors in settling debtor obligations regarding debt payment obligations based on the principles of justice and legal certainty for creditors, including concurrent creditors.

CONCLUSION

Concurrent creditors do not receive their rights in the bankruptcy settlement because the curator prioritizes creditors with privileged and prioritized rights, such as preferred creditors and secured creditors, in the settlement of the bankruptcy estate. The principle of justice, as formulated in the

explanation of Law Number 37 of 2004, has not been appropriately implemented. Based on bankruptcy data from decision number 37/Pdt.Sus-PKPU/2023/PN Niaga Smg, the bankrupt debtor's assets cannot cover all the receivables of creditors who have submitted bills to the curator, which have been recorded and verified previously. Therefore, the payment of creditor rights as stipulated in Law Number 37 of 2004 has a weakness: it cannot fulfill all the rights of creditors, in this case, concurrent creditors.

Fulfilling creditors' rights, including concurrent creditors' rights, in settling bankruptcy assets is based on justice and legal certainty. Legal certainty protects justice seekers against arbitrary actions. The law should be a means of renewal and community development. In relation to this bankruptcy law, policy reforms are needed to resolve debt issues that protect creditors in settling debt repayment obligations based on the principles of justice and legal certainty.

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