

ABSTRAK

PERLINDUNGAN HUKUM TERHADAP *LESSOR* AKIBAT KEPAILITAN PERSEROAN TERBATAS. (Studi Pada PT. Metro Batavia Air)

Pengajuan pailit merupakan salah satu langkah cepat Kreditor untuk meminta pelunasan utang terhadap Debitor. Proses permohonan sesuai syarat essential Pasal 2 ayat (1) Undang-Undang Nomor 37 Tahun 2004 tentang kepailitan dan Penundaan Kewajiban Pembayaran Utang. Setelah putusan diucapkan, Kurator mempunyai kewajiban untuk melaksanakan tugas pengurusan dan pemberesan harta pailit, untuk membayar hak para Kreditor yang seharusnya mereka peroleh sesuai dengan tingkat urutan tuntutan mereka tetapi Debitor mengalihkan aset perusahaan sebelum pailit diputuskan. Sehingga harta pailit berkurang yang mengakibatkan hutang *lessor* tidak terbayar.

Permasalahannya adalah Bagaimana perlindungan hukum terhadap *lessor* akibat kepailitan Perseroan Terbatas? ; Bagaimana akibat hukum terhadap *lessor* pada kepailitan?

Penelitian ini menggunakan metode yuridis empiris, yaitu metode penelitian yang dilakukan untuk mendapatkan data primer dan menemukan kebenaran dengan menggunakan metode berpikir induktif dan kriterium kebenaran koresponden serta fakta yang digunakan untuk melakukan proses induksi dan pengujian kebenaran secara wawancara, dengan menggunakan metode kualitatif, penelitian tentang riset yang bersifat deskriptif dan cenderung menggunakan analisis.

Berdasarkan hasil penelitian, dapat diketahui bahwa: Hakim Pengadilan Niaga dalam perkara kepailitan PT. Metro Batavia Air yang hanya mengacu pada ketentuan dalam Pasal 2 ayat (1) UUK-PKPU, tanpa mempertimbangkan Undang-Undang Perseroan Terbatas dalam Pasal 104 ayat (4) huruf d sebagai bentuk upaya hukum Debitor dalam melakukan pencegahan kepailitan sebagai perlindungan hukum terhadap *lessor* sebagai Kreditor Konkuren terhadap kepailitan. Dan Debitor telah mengalihkan boedel pailit sebelum diputusnya putusan pailit oleh Pengadilan Niaga sehingga merugikan pihak *Lessor* sebagai Kreditor Konkuren yang tidak terbayarnya hutang akibat besarnya hutang Debitor dibandingkan aset perusahaan yang ada.

Menurut penulis, Sebelum Hakim dalam memutus perkara permohonan pernyataan pailit harus meninjau pencabutan permohonan pailit sebagai bentuk perdamaian demi kelangsungan usaha Perseroan

Terbatas dan tidak mengacu pada Peraturan Pemerintah tentang Pendaftaran Tanah yang mengakibatkan *lessor* sebagai Kreditor Konkuren dirugikan akibat perbuatan hukum tersebut

Kata Kunci : Perlindungan Hukum, *lessor*, kepailitan dan Perseroan Terbatas.

ABSTRACT

LEGAL PROTECTION TO LESSOR DUE TO THE BANKRUPTCY OF LIMITED LIABILITY COMPANY

(A Study at PT. Metro Batavia Air)

The application of bankruptcy is one of creditors' quick measures to ask for debt settlement to debtors. The application process is in accordance with the essential requirement of article 2 paragraph (1) of Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligation. After the decision is read, Curator has the obligation to perform the duty of arrangement and settlement of bankruptcy assets to pay creditors' right which they should get in accordance with the level of their lawsuit, but Debtors transfer the company's assets before the bankruptcy is decided. Therefore, the reduction of bankruptcy assets leads to unpaid lessor's debt.

The research problems were: how are the legal protection to lessor due to the bankruptcy of Limited Liability Company? How are the legal assets effects on lessor in bankruptcy?

The research method used was empirical juridical, which is a research method conducted to get primary data and to find truth by using inductive thinking method and the criteria of respondent's truth along with the facts used to conduct induction process and truth test by means of interview using qualitative method. It is also a research on research with descriptive nature and tends to use analysis.

Based on the research result, it is found that: The Judges of the Commercial Court in the bankruptcy case of PT. Metro Batavia Air only referred to the provisions in article 2 paragraph (1) of UUK-PKPU without any consideration to Limited Liability Company Law in article 104 paragraph (4) point d as the form of debtor's legal effort in preventing bankruptcy as the legal protection to lessor as Concurrent Creditor to bankruptcy. In other hand, Debtors has transferred their bankruptcy assets before the bankruptcy decision is made by the Commercial Court so that it is the loss in Lessor side as Concurrent Creditor due to unpaid debt and Debtors' huge amount of debt which is greater than the existing company's assets.

According to the writer, before the Judges decide a case of bankruptcy statement application, they have to view the revocation of bankruptcy application as the form of peace agreement for the continuance of the Limited Liability Company's business and do not refer to the Government Regulation on Land Registration that makes Lessor as a Concurrent Creditor get loss due to the legal action.

Keywords: Legal Protection, Lessor, Bankruptcy, and Limited Liability Company.