ABSTRAK

AKIBAT HUKUM OBJEK JAMINAN KREDIT MILIK PIHAK KETIGA DALAM PENYELESAIAN KEPAILITAN DEBITOR (STUDI PUTUSAN No. 45 PK/Pdt.Sus-Pailit/2024)

Oleh

ECHA CRISTI

Penelitian mengkaji Putusan MA No. 45 PK/Pdt.Sus-Pailit/2024 yang menunjukkan adanya perbedaan penafsiran antara *judec facti* dan *judec juris* mengenai kedudukan hak jaminan kebendaan atas objek jaminan milik pihak ketiga yang dimasukkan ke dalam sita umum boedel pailit. Perbedaan penafsiran menimbulkan ketidakpastian hukum bagi Kreditor separatis dan pemilik jaminan, serta berpotensi memperluas boedel pailit yang tidak sesuai dengan ketentuan hukum kepailitan. Penelitian ini bertujuan untuk mengetahui bagaimana akibat hukum objek jaminan milik pihak ketiga dalam perspektif hukum kepailitan di Indonesia ? Apa pertimbangan hakim dalam mengecualikan objek tersebut dari boedel pailit ? serta apa akibat hukumnya bagi Kreditor dan pemilik jaminan ?

Metode penelitian hukum normatif dengan tipe deskriptif, melalui pendekatan kasus dan pendekatan Undang-Undang. Data bersumber dari bahan hukum sekunder yang dikumpulkan melalui studi kepustakaan dan studi dokumen, kemudian dianalisis secara kualitatif melalui tahap pemeriksaan, rekonstruksi, dan sistematisasi data.

Hasil penelitian menunjukkan bahwa objek jaminan milik pihak ketiga tidak dapat dikualifikasikan sebagai boedel pailit karena kepailitan hanya meliputi harta yang sah dimiliki Debitor sebagaimana diatur dalam Pasal 21 dan Pasal 23 UUK PKPU. Majelis Hakim menegaskan bahwa penguasaan sertifikat maupun perjanjian jaminan tidak menyebabkan peralihan hak milik karena jaminan kebendaan bersifat accesoir dan hanya memberikan hak preferen kepada Kreditor separatis. Penerapan Pasal 59 UUK PKPU oleh judec facti dan judec juris dinilai keliru karena pasal tersebut hanya mengatur penangguhan eksekusi, bukan kewenangan Kurator untuk menguasai objek milik pihak ketiga. Kurator dinyatakan melakukan tindakan ultra vires. Akibat hukumnya, hak pemilik jaminan dan Kreditor separatis dipulihkan, objek jaminan dikeluarkan dari boedel pailit, serta Kurator wajib menyesuaikan kembali rencana pemberesan dan pembagian harta pailit sesuai UUK PKPU.

Kata kunci: Akibat Hukum, Debitor, Kepailitan, Jaminan Kredit.

ABSTRACT

LEGAL CONSEQUENCES OF THIRD PARTY COLLATERAL OBJECTS IN THE SETTLEMENT OF DEBTOR BANKRUPTCY
(A Study of Supreme Court Decision No. 45 PK/Pdt.Sus-Pailit/2024)

By

Echa Cristi

This research examines Supreme Court Decision No. 45 PK/Pdt.Sus-Pailit/2024, which reveals divergent interpretations between the judex facti and the judex juris concerning the legal status of proprietary security rights over collateral objects owned by third parties that were included in the general attachment of the bankruptcy estate (boedel pailit). Such divergence has resulted in legal uncertainty for secured creditors (separatist creditors) and collateral owners, and has the potential to improperly expand the scope of the bankruptcy estate in contravention of Indonesian bankruptcy law. This study aims to analyze: (1) the legal consequences of third party collateral objects from the perspective of Indonesian bankruptcy law; (2) the judicial considerations underlying the exclusion of such objects from the bankruptcy estate; and (3) the legal implications for secured creditors and collateral owners.

This research employs a normative legal research method with a descriptive approach, utilizing a case approach and a statutory approach. The data are derived from secondary legal materials collected through literature review and document analysis, and are examined qualitatively through the stages of data examination, reconstruction, and systematization.

The findings indicate that collateral objects owned by third parties cannot be classified as part of the bankruptcy estate, as bankruptcy proceedings are limited to assets lawfully owned by the debtor, as stipulated under Articles 21 and 23 of the Bankruptcy and Suspension of Debt Payment Obligations Law (UUK-PKPU). The Panel of Judges emphasized that the possession of certificates or security agreements does not result in a transfer of ownership rights, since proprietary security rights are accessory in nature and merely confer preferential rights upon secured creditors. Furthermore, the application of Article 59 of the UUK-PKPU by both the judex facti and the judex juris was deemed erroneous, as the provision solely governs the suspension of execution rights and does not authorize the Curator to take control over assets owned by third parties. Consequently, the Curator's actions were declared ultra vires. The legal consequences include the restoration of the rights of collateral owners and secured creditors, the exclusion of the collateral objects from the bankruptcy estate, and the obligation of the

Curator to readjust the liquidation and distribution plan of the bankruptcy assets in accordance with the UUK-PKPU.

Keywords: Bankruptcy, Credit Security, Debtor, Legal Consequences.