

ABSTRAK

PERLINDUNGAN HUKUM TERHADAP KREDITUR DALAM KEPAILITAN ATAS PERBUATAN HUKUM DIREKSI MELALUI ACTIO PAULIANA

(Studi Kasus Kepailitan PT Sumber Urip Sejati Utama)

Oleh:

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Kepailitan PT Sumber Urip (Debitur Pailit) melahirkan kewenangan Tim Kurator atas seluruh hartanya sejak diputus dengan putusan pernyataan pailit Pengadilan Niaga. Dalam inventarisasi harta pailitnya ditemukan adanya pengalihan aset oleh Direksi yang merugikan kepentingan para kreditur. Untuk itu, Tim Kurator mengajukan gugatan *actio pauliana*, selanjutnya adanya keberatan dalam kasasi oleh PT Sinar Mas dan selanjutnya dilakukan upaya peninjauan kembali oleh Tim Kurator. Penelitian ini mengkaji upaya hukum Kurator melindungi kreditur melalui *actio pauliana* atas perbuatan hukum Direksi dan akibat hukum penerapan *actio pauliana* terhadap kreditur atas perbuatan hukum Direksi.

Jenis penelitian ini adalah penelitian hukum normatif dengan tipe penelitian deskriptif. Pendekatan masalah menggunakan pendekatan studi kasus putusan yang telah berkekuatan hukum tetap. Data yang digunakan adalah data sekunder melalui studi dokumen (putusan) dan studi kepustakaan. Selanjutnya, data diolah melalui pemeriksaan data, editing, dan sistematisasi data, serta dianalisis secara kualitatif.

Hasil penelitian dan pembahasan menjelaskan alasan hukum Tim Kurator dalam gugatan *actio pauliana* bahwa adanya fakta hukum terjadi pengalihan aset Debitur Pailit kepada PT Sinar Mas oleh Direksi dengan persetujuan Bank ICBC, adanya iktikad buruk antara Direksi, PT Sinar Mas, dan Bank ICBC bersepakat melakukan pengalihan dengan perjanjian anjak piutang disertai jaminan sebagai perbuatan melawan hukum, dan perbuatan hukum Direksi telah memenuhi unsur-unsur *actio pauliana* sebagaimana diatur dalam Pasal 41 dan 42 UU Kepailitan. Alasan hukum Tim Kurator tersebut dibenarkan oleh Majelis Hakim Agung dalam Putusan Peninjauan Kembali dan membatalkan Putusan Kasasi atas perkara ini. Pertimbangan hukum Majelis Hakim Agung Peninjauan Kembali bahwa perbuatan hukum pengalihan aset dilakukan oleh Direksi yang berstatus organ perseroan yang berwenang yang mewakili Debitur Pailit dan aset yang dialihkan terbukti sebagai bagian dari *boedel* pailit. Akibat hukum dari penerapan *actio pauliana* menjadi penegasan adanya perlindungan hukum terhadap kreditur dan Direksi terbukti melakukan perbuatan melawan hukum serta aset yang dialihkan wajib dikembalikan kepada Tim Kurator untuk dimasukkan ke dalam *boedel* pailit.

Kata Kunci: Actio Pauliana, Kepailitan, Direksi, Perlindungan Kreditur.

ABSTRACT

LEGAL PROTECTION OF CREDITORS IN BANKRUPTCY AGAINST DIRECTORS' LEGAL ACTS THROUGH ACTIO PAULIANA (Case Study on the Bankruptcy of PT Sumber Urip Sejati Utama)

By:

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The bankruptcy of PT Sumber Urip (Bankrupt Debtor) vested the Curator Team with authority over all of its assets from the moment the Commercial Court issued the declaration of bankruptcy. During the inventory of the bankruptcy estate, the Curator Team discovered an asset transfer conducted by the Board of Directors that was detrimental to the interests of the creditors. Accordingly, the Curator Team filed an actio pauliana claim, followed by a cassation objection by PT Sinar Mas and subsequently a judicial review petition by the Curator Team. This study examines the Curator's legal efforts to protect creditors through actio pauliana against the Directors' legal acts and the legal consequences of applying actio pauliana to creditors arising from the Directors' legal acts.

This research is a normative legal study with a descriptive research type. The problem approach employs a case study approach of court decisions that have obtained permanent legal force. The data used are secondary data obtained through document studies and literature studies. The data are then processed through data verification, editing, and systematization, and analyzed qualitatively.

The results of the research and discussion explain the legal grounds of the Curator Team's actio pauliana claim, namely the established legal fact that an asset transfer of the Bankrupt Debtor to PT Sinar Mas was carried out by the Board of Directors with the approval of Bank ICBC, the existence of bad faith among the Board of Directors, PT Sinar Mas, and Bank ICBC who conspired to execute the transfer through a factoring agreement as a tort, and that the legal acts of the Board of Directors satisfied all elements of actio pauliana as regulated under Articles 41 and 42 of the Bankruptcy Law. The legal grounds of the Curator Team were affirmed by the Supreme Court in the Judicial Review Decision, which annulled the Cassation Decision. The Judicial Review Court considered that the asset transfer was carried out by the Board of Directors in their capacity as the authorized corporate organ representing the Bankrupt Debtor and that the transferred assets were proven to constitute part of the bankruptcy estate. The legal consequences of applying actio pauliana affirm legal protection for creditors, that the Board of Directors was proven to have committed a tort, and that the transferred assets must be returned to the Curator Team to be included in the bankruptcy estate.

Keywords: Actio Pauliana, Bankruptcy, Curator, Directors, Creditor Protection.