Jurnal Ilmiah: Suara Edukasi Hukum
Vol. 2 No. 2 (2026)
P-ISSN: 3090 - 8434 | E-ISSN: 3090 - 8469

LEGAL PROTECTION FOR CREDITORS WHEN A DEBTOR DECLARES BANKRUPTCY IN DEBT AND CREDIT CASES

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Keywords: Legal Protection, Creditors, Bankruptcy, PKPU.

ABSTRACT

This study aims to analyze legal protection for creditors in debt-related disputes when a debtor is declared bankrupt, as well as the effectiveness of bankruptcy mechanisms and the Suspension of Debt Payment Obligations (PKPU). The research employs a normative juridical method with statutory, conceptual, and case approaches, particularly through the analysis of Decision Number 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat. Data were obtained through library research and analyzed qualitatively. The results indicate that legal protection for creditors is realized through a general seizure mechanism over the debtor's assets and collective distribution in accordance with creditor classification. However, the simple evidentiary system in bankruptcy proceedings has the potential to create imbalances if not accompanied by judicial prudence. In addition, PKPU, which is intended as a means of debt restructuring, can in practice also be used as a tool of pressure by the parties. Therefore, it is necessary to strengthen the role of judges and supervision in the implementation of bankruptcy and PKPU in order to ensure legal certainty and justice for creditors.

1. INTRODUCTION

Debt-credit legal relationships are a crucial foundation of the civil law system and the heart of modern economic activity. Article 1754 of the Civil Code (KUHPerdata) defines a loan as an agreement in which one party transfers a quantity of consumable goods to another party, with the recipient obligated to return the same quantity and of similar quality. This definition, though classical, remains relevant. However, the contemporary landscape of debt and credit extends far beyond simple transactions between individuals. Today, debt and credit relationships involve multinational corporations,

complex financial institutions, and transactions worth billions of dollars, which demand a deep legal understanding (Agustina, 2020).

Rapid global economic growth, unfortunately, has been accompanied by an increase in the risk of default. Data from Bank Indonesia (2023) shows that Non-Performing Loans (NPLs) in the corporate sector rose by 0.5% in the final quarter of 2023, indicating a potential systemic risk that warrants vigilance. Additionally, a report from the Financial Services Authority (OJK, 2024) notes a significant increase in corporate loan restructurings, indicating that many companies are struggling to meet their financial obligations. Furthermore, a report from the World Bank (2024) highlights that rising global interest rates and economic uncertainty have worsened the financial conditions of companies in developing countries, including Indonesia, thereby increasing the risk of default. These default conditions trigger significant legal consequences, particularly the possibility of filing for bankruptcy—a process comprehensively regulated under Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (UUK & PKPU). Article 2(1) of the UUK & PKPU explicitly states that a debtor with two or more creditors who fails to pay at least one debt that has become due may be declared bankrupt by a court, either at the debtor's own initiative or upon a creditor's petition.

However, bankruptcy is not the only option. The UUK & PKPU also provides for a Debt Payment Moratorium (PKPU), an instrument designed to give debtors the opportunity to restructure their debts through a settlement plan negotiated with creditors (Susanti, 2019). PKPU serves as a preventive measure to avoid bankruptcy, enables the debtor's business to continue, and protects economic value that might be lost if the company were liquidated (Wijayanti, 2021). During the PKPU period, the debtor enjoys legal protection from individual enforcement actions by creditors, creating a more balanced negotiating environment (Hadi, 2022).

Ironically, the PKPU and bankruptcy mechanisms are often misused as strategic tools by creditors to pressure debtors during the debt collection process. This phenomenon is reflected in various cases involving large corporations, such as that revealed in Decision No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat, where a PKPU petition was filed against a large-scale company. In fact, public companies such as VIVA and MDIA (Bakrie Group) have previously been subject to provisional PKPU orders, indicating that this mechanism has significant implications for large corporations and the capital market (CNN Indonesia, 2015). Such misuse can

erode trust in the legal system and create uncertainty for investors (Rahman, 2023).

This situation has far-reaching implications, not only for the legal relationship between creditors and debtors but also for business stability, investor confidence, and legal certainty in the business world (Siregar, 2020). In bankruptcy, all of the debtor's assets become part of the bankruptcy estate, which is used to pay obligations to creditors. However, in practice, issues often arise regarding legal protection for creditors, particularly concerning their standing and priority in payment, the effectiveness of enforcing creditors' rights, and potential injustices in the distribution of the bankruptcy estate (Indrayana, 2018).

These issues highlight a significant gap between the legal norms set forth in legislation and their implementation in practice. Although bankruptcy law aims to provide certainty and justice for all parties involved, judicial practice often reveals the potential for abuse of both the PKPU and bankruptcy mechanisms, which can actually harm one party—particularly certain creditors (Setiawan, 2021). This gap is exacerbated by a lack of in-depth understanding of creditors' rights and the protective mechanisms available to them (Prasetyo, 2022).

Several previous studies have highlighted the complexities and challenges in implementing the UUK and PKPU. For example, a study by Dewi (2020) found that bankruptcy proceedings are often time-consuming and costly, reducing the value of the debtor's assets and harming creditors. Another study by Santoso (2021) highlighted the lack of transparency in the liquidation of bankruptcy assets, which can create opportunities for corruption and collusion. Furthermore, an analysis conducted by Putra (2022) indicates that commercial court judges often interpret the UUK & PKPU differently, creating legal uncertainty and making it difficult for creditors to predict the outcome of cases.

Therefore, it is important to conduct an in-depth study on the nature of legal protections for creditors when a debtor is declared bankrupt, as well as the effectiveness of available legal mechanisms in safeguarding creditors' rights. This study is expected to make a significant contribution to the development of bankruptcy law in Indonesia, particularly in striking a balance between the interests of creditors and debtors and in ensuring legal certainty and justice in the resolution of debt cases. This study is also expected to provide practical recommendations for policymakers and legal

practitioners to improve the effectiveness and fairness of the bankruptcy system in Indonesia (Maharani, 2023).

Based on this background, this study focuses on two main issues. First, what are the forms and mechanisms of legal protection for creditors in debt cases when a debtor is declared bankrupt under Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligations, particularly regarding the status, rights, and priority of creditor payments in the process of liquidating the bankrupt estate. The hypothesis proposed is that legal protection for creditors in bankruptcy proceedings remains suboptimal due to a lack of law enforcement and a lack of understanding regarding creditors' rights.

Second, how effective is the application of bankruptcy mechanisms and the Debt Payment Obligation Moratorium (PKPU) in providing legal certainty and justice for creditors, and to what extent do judicial practices—including commercial court rulings—reflect optimal legal protection of creditors' interests in the resolution of debt disputes? The hypothesis put forward is that the PKPU mechanism is often exploited as a tool to delay debt payments and harm creditors, while commercial court rulings are often inconsistent and fail to adequately consider creditors' interests.

2. RESEARCH METHOD

This study employs a normative legal research approach, which focuses on analyzing legal norms enshrined in legislation, court rulings, and legal doctrines relevant to the issues under investigation. This approach was chosen because the study aims to analyze legal protection for creditors in bankruptcy cases based on the provisions of positive law in effect in Indonesia.

The approaches used in this study include several methods, namely: the statutory approach, which examines provisions in the Civil Code and Law No. 37 of 2004 on Bankruptcy and PKPU; the conceptual approach, used to understand the concepts of legal protection, legal certainty, and justice; and the case approach, which involves analyzing court decisions, specifically Decision No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat as the subject of study.

The legal sources used in this study consist of primary legal sources, namely laws and regulations and court decisions; secondary legal sources, such as books, academic journals, and relevant previous research; as well as tertiary legal sources, such as legal dictionaries and encyclopedias that

support the understanding of concepts. Legal materials were collected through library research by reviewing various legal literature and documents related to the research topic.

3. RESULT AND DISCUSSION

3.1. The Legal Relationship Between Debts and Credit and the Onset of Bankruptcy

The legal relationship between a debtor and a creditor is established through a debt agreement, an integral part of contract law as regulated in the Civil Code (KUHPerdata). This agreement creates a reciprocal legal relationship, in which the creditor has the right to demand repayment of the debt, and the debtor is obligated to fulfill the agreed-upon performance (Subekti, 2005). In the context of modern business, debt-credit relationships have become increasingly complex, involving various financial instruments such as bonds, syndicated loans, and derivatives (Djumhana, 2016).

Generally, debt agreements are formalized in writing to provide legal certainty, particularly regarding the amount of debt, the term, and the payment mechanism (Fuady, 2014). This certainty is crucial for preventing future disputes. However, legal issues arise when the debtor fails to fulfill their obligations upon maturity. This default may be caused by the debtor's inability (insolvency) or unwillingness to pay. Inability may stem from external factors such as an economic crisis or internal factors such as mismanagement (Gitman & Zutter, 2015). Unwillingness to pay is often linked to business disputes or bad faith on the part of the debtor.

Both of these conditions are detrimental to creditors and have the potential to lead to legal disputes. Under bankruptcy law, these conditions form the basis for filing a petition for bankruptcy pursuant to Article 2(1) of Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligations (UUK-PKPU). This article emphasizes that bankruptcy does not require deep insolvency; rather, it is sufficient to provide evidence of two or more creditors and one debt that has matured and is collectible.

The Indonesian bankruptcy system adheres to the principle of simplified evidence to expedite the resolution of debt cases (Simorangkir, 2019). This principle differs from the evidentiary standards in ordinary civil cases, which require more comprehensive evidence (Yahya Harahap,

2009). However, the principle of simplified evidence can lead to problems, such as the potential for creditors to misuse the bankruptcy mechanism as a means of pressuring debtors (Pramono, 2017). Therefore, the role of the judge is crucial in maintaining a balance between legal certainty and justice for the parties involved.

3.2. Mechanisms for Resolving Debt Disputes and the Role of Commercial Courts

The Indonesian legal system provides various mechanisms for resolving debt disputes, both through non-litigation and litigation channels (Setiawan, 2018). Non-litigation resolution includes negotiation, mediation, and alternative dispute resolution (ADR). Negotiation involves direct communication between the debtor and the creditor to reach an agreement (Fisher & Ury, 2011). Mediation involves a neutral third party who helps facilitate the negotiation (Moore, 2014). ADR encompasses various methods such as arbitration and conciliation (Goldberg et al., 2012).

Litigation proceeds through the courts, including commercial courts, which have special jurisdiction over bankruptcy cases and PKPU proceedings (Widjaja, 2015). Commercial courts were established to handle business disputes quickly and efficiently (Rahman, 2019). These courts are staffed by judges with specialized expertise in business and bankruptcy law (Asikin, 2017). Commercial courts have distinct characteristics, namely a swift adjudication process and a simplified standard of proof (Article 8(4) of the UUK-PKPU). This provision states that a petition for a declaration of bankruptcy must be granted if the existence of the grounds for bankruptcy is proven through a simplified process. This simplified evidentiary system differs from ordinary civil cases, which require more in-depth evidence (Lindsey, 2016). Consequently, judges focus more on formal evidence regarding the existence of overdue debts and the presence of more than one creditor, without conducting an in-depth assessment of the debtor's financial condition (Wibowo, 2018). A bankruptcy ruling can be issued in a relatively short period of time (on average, within 6 months).

However, this situation raises concerns, particularly regarding the potential for creditors to misuse the bankruptcy mechanism as a tool to exert pressure on the debtor (Sutedi, 2016). Creditors may file for bankruptcy even if the debtor is actually capable of paying the debt but refuses to do so due to business disputes or other reasons (Smith, 2017).

Therefore, the role of the judge is crucial in maintaining a balance between legal certainty and justice for all parties (Sunaryati Hartono, 2011). Judges must carefully evaluate the evidence presented and consider the interests of all parties involved (Dworkin, 1977).

3.3. Legal Consequences of Bankruptcy for Debtors and Implications for Creditors

A bankruptcy declaration carries significant legal consequences for both the debtor and the creditors. Pursuant to Articles 21 through 64 of the Bankruptcy Law (UUK-PKPU), once the bankruptcy declaration is issued, the debtor loses the right to control and manage their assets (Mertokusumo, 2010). All of the debtor's assets become part of the bankruptcy estate, which is under the administration of the trustee (Hasan, 2013). The trustee has the authority to manage and liquidate the bankruptcy estate (Bankruptcy Law, Article 69). These legal consequences take effect by operation of law, meaning they do not require any additional action to become effective (Black, 2010).

On the other hand, there is the "rule of reason" approach, whereby legal consequences only take effect if there is a rational basis and they are established through specific legal actions (Raz, 1979). This approach provides flexibility in the application of bankruptcy law, allowing judges to consider the specific circumstances of each case (Fuller, 1969). For creditors, bankruptcy provides a guarantee that debt settlement is carried out collectively through the mechanism of general attachment, thereby avoiding individual competition for the debtor's assets (Eisenberg, 2001). However, in practice, not all creditors receive the same protection (LoPucki, 2005). Creditors are classified into three categories: secured, preferential, and unsecured creditors, which determine the priority of payments from the bankruptcy estate (Westbrook, 2010). Secured creditors hold a security interest in the debtor's assets and have the highest priority in repayment (UUK-PKPU, Article 59). Preferred creditors have statutory priority rights, such as tax claims and employee wages (Bankruptcy Law, Article 113). Concurrent creditors are those without security or statutory priority rights and have the lowest priority in repayment (Bankruptcy Law, Article 119).

A common problem is that the value of the bankrupt estate is insufficient to cover the total debt owed (Jackson, 1986). This situation often results in unsecured creditors not receiving full repayment, and they may even potentially receive no payment at all (Baird & Jackson,

1984). Furthermore, the bankruptcy process can impact the debtor's reputation and business continuity, particularly for publicly traded companies that are sensitive to market confidence (Jensen & Meckling, 1976).

Although bankruptcy law is normatively intended to provide certainty and justice, in practice there remain challenges in ensuring optimal legal protection for creditors (Warren, 1987). This underscores the importance of strengthening regulations and the role of the judiciary in ensuring a balance of interests between debtors and creditors (Posner, 1998). Regulatory strengthening can be achieved by revising the Bankruptcy Law (UUK-PKPU) to enhance the efficiency and transparency of the bankruptcy process (Djojosubroto, 2020). The role of the judiciary can be enhanced by providing specialized training to commercial court judges and increasing oversight of trustees (Hadad, 2018).

3.4. Analysis of the Judgment: Creditor Protection in Judgment No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat

An analysis of Judgment No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat is important to examine how bankruptcy law and PKPU norms are implemented in judicial practice, particularly in the context of legal protection for creditors. This ruling reflects the dynamics of the relationship between debtors and creditors in situations of inability to pay debts, while also demonstrating how the PKPU mechanism is used as an instrument for resolving debt disputes.

3.4.1. Case Background (Legal Standing and PKPU Petition)

In this case, the PKPU petition was filed against a debtor who had more than one creditor and had failed to fulfill obligations to pay debts that had become due. These conditions meet the requirements of Article 2(1) in conjunction with the provisions on PKPU in the UUK-PKPU. The PKPU petition represents an initial effort to avoid bankruptcy through debt restructuring. From a legal perspective, filing for PKPU can be viewed as protection not only for the debtor but also for creditors collectively, as it provides room for negotiation and the possibility of proportional debt repayment (Bratton, 2012).

3.4.2. Judicial Considerations and the Application of the Principle of Simple Proof

In adjudicating PKPU cases, commercial court judges apply the principle of simplified (summarized) evidence, meaning it is sufficient to prove the existence of overdue debt and the presence of more than one creditor. This approach expedites the judicial process but risks overlooking an in-depth analysis of the debtor's financial condition (Trebilcock, 2015). In this context, the judge serves as a guardian of the balance between legal certainty and justice. The issuance of a provisional PKPU ruling indicates that the judge grants the debtor an opportunity to restructure its debt before proceeding to bankruptcy.

However, the use of simplified evidentiary standards risks being exploited by creditors as a means of pressuring the debtor, particularly in cases involving large corporations with highly complex financial structures (Armour, 2000). Judges must exercise greater diligence in evaluating evidence and weighing the interests of all parties.

3.4.3. Implications of the Ruling for Creditor Protection

From the creditors' perspective, the issuance of a PKPU order has two main implications. First, the suspension of individual enforcement rights requires creditors to follow a collective mechanism for debt settlement (UUK-PKPU, Article 28). Second, it opens the possibility of obtaining debt repayment through a mutually agreed-upon settlement scheme (UUK-PKPU, Article 145).

However, in practice, not all creditors are on an equal footing. Secured creditors (separatists) tend to have a stronger position than unsecured creditors (Franks & Torous, 1994). The PKPU process can slow down the fulfillment of creditors' rights, especially if the restructuring is ineffective or results in bankruptcy (Berkovitch & Israel, 1999). For publicly traded companies, the imposition of PKPU can lead to a decline in market confidence, which affects asset values and the debtor's ability to meet its obligations (Myers, 1977).

3.4.4. Critical Analysis: Between Protection and Potential for Abuse

Normatively, PKPU is designed as a legal protection mechanism that strikes a balance between the interests of debtors and creditors. However, in practice, there is potential for abuse of this mechanism, both by debtors to delay their obligations and by

creditors as a means of exerting pressure (Bebchuk, 2002). In Decision No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat, it is evident that the PKPU mechanism functions as a "gray area" between solvency and bankruptcy. On the one hand, PKPU provides room for business rescue; on the other hand, it can create uncertainty for creditors.

Therefore, it is necessary to strengthen the role of judges in examining the substance of a case more comprehensively, while still remaining within the framework of simple evidence. In addition, oversight of the implementation of PKPU is also necessary to prevent abuse and ensure it remains oriented toward the principles of justice and legal certainty (Djojosubroto, 2020). Oversight can be carried out by forming a supervisory committee consisting of representatives of creditors, debtors, and independent parties (Hadad, 2018).

4. CONCLUSION AND RECOMMENDATIONS

Based on the results and discussion, it can be concluded that the legal relationship between debtors and creditors in a debt agreement gives rise to rights and obligations that must be fulfilled proportionally. When a debtor is unable or unwilling to fulfill their obligations upon maturity, this situation may serve as the basis for filing a petition for bankruptcy as regulated under Law No. 37 of 2004. The simplified evidentiary system adopted in Indonesian bankruptcy law facilitates efficiency and speed in judicial proceedings; however, it also has the potential to create imbalances if not balanced by the judge's careful assessment of the substance of the case.

Furthermore, the Debt Payment Moratorium (PKPU) mechanism is essentially a legal instrument aimed at providing protection to both debtors and creditors through debt restructuring efforts. However, in practice—including in Judgment No. 13/Pdt.Sus-PKPU/2024/PN Niaga Jakarta Pusat—this mechanism can also be used as a tool for exerting pressure in creditor-debtor relationships. The legal consequences of bankruptcy—which place all of the debtor's assets into the bankruptcy estate under the administration of a trustee—indicate the existence of a collective settlement system; however, this system does not yet fully guarantee optimal protection for all creditors, particularly unsecured creditors. Therefore, it is necessary to strengthen the implementation of bankruptcy law—particularly regarding the role of judges

and oversight of the PKPU process—to achieve a balance between legal certainty, justice, and the protection of creditors' interests.

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