



RIGHTS OF BANKRUPT DEBTORS IN THE MANAGEMENT AND SETTLEMENT PROCESS IN ACCORDANCE WITH LAW NUMBER 37 OF 2004 CONCERNING BANKRUPTCY AND PKPU

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Abstract

The debtor's rights in the process of settling bankruptcy assets are very weak, where the debtor will lose his rights to control and manage his assets which are included in bankruptcy assets as stipulated in Article 24 Paragraph (1) of the Bankruptcy Law. However, in the event that the debtor is declared bankrupt, the law gives the debtor the right to submit a reconciliation plan, submit a postponement of debt payment obligations and submit an appeal and review, all of which are efforts to protect the rights of the debtor. In the process of settling bankruptcy assets, the legal protection for debtors' rights is quite weak. Because since the pronouncement of the bankruptcy declaration decision by the court, the debtor will lose the right to manage his assets which are included as bankruptcy assets. As a result, the debtor is no longer able to legally act on his assets that are included in the bankruptcy estate, in this case the management of bankruptcy assets becomes the authority of the curator and/or BHP.

Keywords: *Debtor's Rights, Settlement and Management, Bankruptcy Law and PKPU*

1. INTRODUCTION

Currently, the law regarding bankruptcy issues is regulated in Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (called Law No. 37/2004 concerning K-PKPU). The law regulates various matters relating to the bankruptcy process and the stages of settlement due to the bankruptcy of the debtor.¹

Bankruptcy is a general confiscation of all the assets of the debtor which is managed and settled by the curator under the supervision of the Supervisory Judge as regulated in this law. Based on the definition of bankruptcy formulated in Law no. 37/2004 concerning K-PKPU), it can be understood that bankruptcy is a general confiscation (beslaag) of the bankrupt debtor's wealth.

Bankruptcy must be understood as one of the efforts to overcome the debts of debtors who are experiencing bankruptcy. Thus, bankruptcy is not a legal institution that seeks and aims to bankrupt a business, but is an attempt to settle debtors' debts, which is known as the principle of commercial exit from financial distress. That is, bankruptcy of a business can be legally justified as long as it is in the context of debt settlement due to financial (financial) difficulties experienced by debtors to fulfill their obligations.²

¹Rilda Murniati, Pengurusan dan Pembersan Harta Pailit oleh Balai Harta Peninggalan Akibat Hukumnya, (Jurnal Fiat Justitia Jurnal Ilmu Hukum Vol. 5 No. 1 Januari-April 2011, ISSN 1978-5186, page 103- 112), hal. 103

²Subhan, M. Hadi, *Hukum Kepailitan (Prinsip, Norma, dan Praktik di Peradilan)*, Prenada Kencana Media Group, Jakarta, 2012, hal. 305

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The existence of bankruptcy begins with the filing of an application for a bankruptcy statement, whether submitted by the debtor himself or any other party that has been determined by Law no. 37/2004 concerning K-PKPU as the party authorized to file for bankruptcy. If the application for a declaration of bankruptcy is accepted by the commercial court, then the application for a declaration of bankruptcy will result in a commercial court decision declaring bankruptcy. In the bankruptcy declaration decision, there are several legal consequences that arise, mainly with regard to the civil rights of the debtor over the object of bankrupted assets and other assets that will be obtained by the debtor, which results in the limited authority of the debtor in carrying out legal actions against his property.

According to the provisions of Article 41 of Law no. 37/2004 concerning K-PKPU, a debtor who has been declared bankrupt based on a court decision, is only allowed to take legal actions that benefit the creditor's interests. If a legal action taken by the debtor prior to the pronouncement of a bankruptcy statement results in a loss for the creditor, then the legal action may be requested for cancellation by the court. From this provision, it can be understood that with the bankruptcy declaration handed down by the commercial court, the debtor's civil rights to his assets are very limited.

Based on the background mentioned above, this research will further examine the debtor's rights in the management and settlement process, in the event that a company is declared bankrupt, with the research title: "Debtor's Rights in the Process of Management and Settlement According to the Bankruptcy Law and PKPU".

From the background of the problems mentioned above, in the research several problem formulations were determined which became the object of research discussion, namely:

1. How are the rights of the debtor in the process of managing and resolving bankruptcy according to Law no. 37/2004 regarding K-PKPU?
2. How is the protection of the debtor's rights in the process of managing and settling the debts of the debtor according to Law no. 37/2004 regarding K-PKPU?

2. RESEARCH METHODS

This type of research is normative legal research, namely research that aims to study and analyze the application of statutory provisions. In this case an analysis will be carried out on the legal provisions governing the rights of the debtor in the process of managing and managing the assets of a debtor who is declared bankrupt in Law no. 37/2004 regarding K-PKPU.

The approach used in this study is a statutory approach, namely by analyzing various laws related to the debtor's rights in the process of managing and clearing the assets of a debtor who is declared bankrupt under Law no. 37/2004 regarding K-PKPU.

The research data is sourced from secondary data, in the form of legal materials consisting of: primary legal materials, secondary legal materials and tertiary legal materials. The data analysis used in this research is qualitative data analysis.



3. RESEARCH RESULTS AND DISCUSSION

1. Debtor's Rights in the Bankruptcy Management and Settlement Process in Law no. 37/2004 regarding K-PKPU

Article 2 Paragraph (1) Law no. 37/2004 concerning K-PKPU, states: "a debtor who has two or more creditors and does not pay off at least one debt that is due and collectible, is declared bankrupt by a court decision, either at his own request or at the request of one or more of his creditors. From the formulation of the article, it can be understood that a bankruptcy statement is a court decision. Thus, before a court declares bankruptcy, a debtor cannot be declared bankrupt.

The definition of bankruptcy can be seen in the formulation of Article 1 paragraph (1) of Law no. 37./2004 concerning K-PKPU, which states that: "bankruptcy is a general confiscation of all assets of a Bankrupt debtor whose management and settlement are carried out by a curator under the supervision of a Supervisory Judge as stipulated in this Law". Meanwhile, according to Man Sastrawijaya, the definition of bankruptcy is a general confiscation carried out by the authorities on the debtor's assets followed by an equal distribution.³

From the definition of bankruptcy above, it can be seen that actually Law no. 37/2004 concerning K-PKPU protects creditors more, because bankruptcy can be requested because the debtor stops paying (able to pay debtors who have two or more creditors and does not pay off at least one debt that is due and collectible), even though the assets owned by the debtor far greater than the amount owed. In short, it can be understood that the problem of bankruptcy concerns debts or promises that cannot be kept for other reasons (force majeure).

Bankruptcy is basically the realization of the two main principles contained in Articles 1331 and 1132 of the Civil Code. Where the legal consequences of a bankruptcy declaration, the debtor will for the sake of losing his right to control and manage his assets, including in bankruptcy assets, from the date the bankruptcy declaration decision is pronounced, then all claims for rights or obligations relating to bankruptcy assets must be submitted by or to the Curator.

From the description above, it can be understood that the philosophy of bankruptcy is that parties who have debts are no longer able to pay their debts, so it is better to be declared bankrupt than to be obliged to fulfill their obligations. According to Erman Rajagukguk, a debtor is declared bankrupt if the debtor is unable to pay or stops paying his debts to creditors, then the debtor can be declared bankrupt.⁴

Under such conditions, bankruptcy must be seen as providing goodness and benefit to creditors and debtors. After the declaration of bankruptcy is pronounced by the commercial court, the debtor will lose his right to control and manage his assets which are included in the bankruptcy assets. This is as stated in Article 15 paragraph (2) and Article 24 paragraph (1) of the Bankruptcy Law. Article 15 Paragraph (2) stipulates that if the debtor and creditor or the party authorized to file for bankruptcy does not submit a proposal to appoint a curator to the court, then the Balai Hartagawa is appointed as curator.

³Man Sastrawijaya, *Bunga Rampai Hukum Dagang*, Alumni, Bandung, 2005, hal. 192

⁴Togar Natigor, *Perlindungan Hukum Terhadap Debitur Dalam Proses Kepailitan dan Pemberesan Budel Pailit*, Tesis Mahasiswa Magister Ilmu Hukum Program Pascasarjana Fakultas Hukum Universitas Indonesia, 2008, hal. 32

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Furthermore, Article 24 Paragraph (1) of the Bankruptcy Law states that the debtor by law loses his right to control and manage his assets which are included in bankruptcy assets, from the date the bankruptcy decision is pronounced.

However, in the bankruptcy filing procedure, the bankrupt company has several rights. The existence of this right is so crucial, it can influence the decision on the bankruptcy of the company. Among the rights of the debtor or bankrupt company, are as follows:

a. The Debtor Has the Right to Submit a Peace Plan

Companies that borrow funds or debtors who are threatened with bankruptcy have the right to submit a peace plan. Article 144 of Law Number 37 of 2004, which regulates the debtor's right to offer peace to all creditors. In the context of implementing peace, the bankrupt debtor must submit a peace plan no later than 8 days before the debt matching meeting is held at the court clerk's office (Article 145 paragraph (1) of the Bankruptcy Law).

The settlement plan offered by the debtor is accepted if it is approved at the creditors' meeting by $\frac{1}{2}$ (one half) of the total number of concurrent creditors present at the meeting and whose rights are recognized or temporarily recognized, representing at least $\frac{2}{3}$ (two thirds) of the total amount concurrent receivables acknowledged or temporarily acknowledged from concurrent creditors or their proxies present at the meeting.

The peace plan offered by the debtor includes: an offer to pay part or all of the debt to the creditor. In this peace plan, there are several proposals that can be submitted by debtors or companies that are threatened with bankruptcy. These proposals include extending the maturity date, removing penalties, reducing interest rates, cutting principal, converting debt into shares, or buying rights to debt.

If the company that lends the funds or the creditor agrees to one of these proposals, then the reconciliation is successful. Companies that borrow funds are no longer on the verge of bankruptcy, but are still required to pay off their debts. The submission of the peace plan itself can be submitted at any time after the bankruptcy decision is pronounced.

The settlement that has been ratified applies to all creditors who do not have the right to take precedence, with no exceptions, whether they have filed for bankruptcy or not (Article 162 of the Bankruptcy Law). This means, if the settlement agreement is agreed upon by $\frac{1}{2}$ of the number of concurrent creditors at the meeting, at which point the settlement agreement is ratified, then the settlement agreement also applies to all creditors, both concurrent creditors and non-concurrent creditors, including creditors who have not filed a settlement agreement. yourself as a creditor. If there is a decision to cancel the settlement, then bankruptcy can be reopened by reappointing the supervisory judge, curator, and members of the creditors' committee, if there was such a committee in the previous bankruptcy. After the bankruptcy is reopened with the cancellation of the settlement, the debtor cannot again submit a settlement offer (Article 175 (paragraph (1) of the Bankruptcy Law).



b. Debtor's Right to Apply for Postponement of Debt Payment Obligations (PKPU)

In the event that the debtor submits a PKPU application and on the other hand the creditor has also submitted an application for a bankruptcy statement, so that the examination of PKPU and the Bankruptcy Application is concurrent, then the PKPU application must be examined and terminated first. Likewise for PKPU applications that were filed later or after the filing of an application for a bankruptcy statement, the examination of the PKPU application must take precedence (Article 229 paragraph (3) and paragraph (4) of the Bankruptcy Law).

Based on the article above, the PKPU application is a right owned by the debtor in the bankruptcy process. Where the debtor still has the right to file a PKPU even though there has been a filing of a bankruptcy statement from the creditor against the debtor to the commercial court. In other words, the debtor's right to submit a PKPU application is not closed even though a concurrent creditor has submitted an application for a bankruptcy statement to the court..

c. Right to File Cassation and Review

If the application for bankruptcy declaration has been decided, then the right in the form of legal action to appeal to the Supreme Court can be made. Regarding the submission of cassation to the Supreme Court itself is regulated in Article 11 paragraph (1) of the Bankruptcy Law. The implementation of the cassation application for the bankruptcy decision is submitted by the debtor or creditor no later than 8 days after the date the decision is pronounced by registering the application for cassation assets to the Supreme Court through the local commercial court. So the right to appeal against a bankruptcy decision is not only the right of the debtor, but also the right of the creditor. Apart from that, it can also be filed by other creditors who are not involved in the court decision of first instance, who are dissatisfied with the decision of the bankruptcy statement.

In contrast to civil court proceedings in general courts, commercial courts in the case of bankruptcy proceedings do not recognize any legal appeals. According to the provisions of Article 11 of the Bankruptcy Law, it is known that there are only 2 (two) legal remedies that can be filed related to a bankruptcy declaration decision by a commercial court, namely cassation to the Supreme Court and judicial review.

Reconsideration efforts can be carried out by the debtor or creditor. Provisions regarding review as stipulated in Article 14 of the Bankruptcy Law, which states that a decision for a bankruptcy statement that has permanent legal force can be submitted for review.

The main requirement in filing for judicial review by the debtor is that the bankruptcy statement decision has permanent legal force. This means that there are no further legal remedies that can be used, other than review. While the parties entitled to submit a review are the parties mentioned in the provisions of Article 12 and Article 13 of the Bankruptcy Law, namely debtors or creditors, including other creditors who are not involved as parties to the examination at the first level who are dissatisfied with the decision. declaration of bankruptcy handed down by the commercial court.

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1. Bankruptcy Process and Protection of Debtors' Rights in the Process of Managing and Settlement of Debtors' Debts According to Law no. 37/2004 regarding K-PKPU.

As has been explained that in the event that the bankruptcy application process is granted, the debtor will lose his right to control and manage the assets included in the bankruptcy assets. Where all bankrupt assets are taken care of by a curator proposed by the debtor or creditor or by the inheritance hall appointed by the court.

Since the pronouncement of the bankruptcy declaration decision, the management of the debtor's assets included in the bankrupt assets becomes the authority of the curator or the hall of inheritance. In the event that there is a bankruptcy declaration decision, the management and/or settlement of bankruptcy assets has in principle been started. Where since the bankruptcy declaration decision from the Commercial Court, the curator and/or BHP have carried out their functions and duties to manage and settle bankrupt assets. Thus, from the date the bankruptcy decision is pronounced, the bankrupt debtor is no longer allowed to manage assets that have been declared bankrupt (bankrupt assets).

The implementation of management and/or settlement of bankruptcy assets is then handed over to a curator appointed by the court or BHP, where the implementation of the functions and duties of the curator is overseen by a supervisory judge appointed from a Court Judge. The implementation of the management of the bankruptcy estate by the curator is instantaneous, and takes effect at that time from the date the decision is made, even though an appeal or review is submitted to the decision.⁵

The initial step taken by BHP or the curator in managing the debtor's bankrupt assets is to announce the bankruptcy of the bankrupt debtor in the State Gazette of the Republic of Indonesia no later than 5 days after the pronouncement of the bankruptcy decision in a newspaper appointed by the court at least 2 times in daily newspapers. The announcement is intended so that creditors know the condition of debtors who have been declared bankrupt based on a bankruptcy statement decided by the Commercial Court.⁶

The announcement of the bankruptcy declaration decision aims to let creditors know that the debtor has been declared bankrupt based on a bankruptcy declaration decision handed down by the court. Thus, creditors can submit themselves as concurrent creditors in the bankruptcy estate settlement process as well as submit bills and debt verification from each concurrent creditor. This is important for the curator and/or BHP, because without the filing of bills and the debt verification process from creditors, it is certain that creditors will not be recorded as bankrupt creditors.

Furthermore, the curator is obliged to notify regarding the first creditors' meeting by registered letter or by courier no later than 5 days after the bankruptcy decision is made. The verification meeting is chaired by a supervisory judge whose aim is to verify the debt or match the debts of the bankrupt debtor. So that it can be determined and clarified the claims included in the bankruptcy estate and also detail the amount of receivables that can be paid to each creditor, which as a whole can be classified into a list of recognized receivables, doubtful receivables (provisionally recognized), and receivables that are disputed, which will later become the basis for consideration in determining the sequence of rights of each creditor. Important things to note in the verification process are:⁷

⁵Achmad Yani dan Gunawan Widjaja, *Seri Hukum Bisnis*, RajaGrafindo Persada, Jakarta, 2002, h. 62

⁶Rilda Murniati, *Pengurusan dan Pembersihan Harta Pailit oleh Balai Harta Peninggalan Akibat Hukumnya*, (Jurnal Hukum, Fakultas Hukum Universitas Lampung, 2011), h. 107.

⁷Moch Fasluki Ikhsanuddin, *Utang Pajak Sebagai dasar Permohonan Pailit*, Skripsi, Fakultas Hukum Universitas Erlangga, Surabaya, 2016, h. 56.



- a. Notification to creditors regarding the deadline for submitting receivables at the verification meeting.
- b. Submission of receivables with written evidence.
- c. Testing the truth of receivables
- d. Making a list of receivables
- e. Notification of a list of receivables
- f. Submission of receivables no later

than 2 (two) days before the verification meeting and there is no objection at the verification meeting, unless the debtor is outside the territory of Indonesia, as stipulated in Article 133 of the Bankruptcy Law.

After the verification meeting is completed, the BHP and/or the curator makes a list of debts and receivables of the bankrupt assets complete with their names and places of residence, along with the respective amounts of these debts and receivables. In the event of a bankruptcy declaration decision, the debtor is given the opportunity by law to propose a reconciliation plan with creditors. Settlement in bankruptcy is more directed at the process of settling the debts of debtors through settlement of bankruptcy assets.⁸

If in bankruptcy a reconciliation plan is proposed and approved at the Creditors' meeting by more than ½ (one half) of the number of concurrent Creditors present at the meeting and whose rights are recognized or temporarily acknowledged, representing at least 2/3 (two thirds) of the total receivables recognized concurrent or temporarily recognized, then ratified by the Commercial Court in a homologation trial, and the decision to ratify the reconciliation has obtained permanent legal force. Homologation of settlements that have obtained legal force will inevitably result in the end of the Debtor's bankruptcy (Article 166 Paragraph (1) of the Bankruptcy Law).

If there are no peace efforts in the bankruptcy process because the bankrupt debtor does not offer peace, the bankrupt debtor offers peace but is rejected by the creditors, or the bankrupt debtor offers peace and is then approved by the creditors but rejected by the Commercial Court judge, then the next process is the insolvency. Insolvency in the English dictionary means: inability to pay debts. The definition of insolvency according to Fridmen, Jack P in Munir Fuady is "the inability to fulfill financial obligations when they fall due as in business, or excess obligations compared to assets within a certain time."⁹

Article 178 Paragraph (1) of the Bankruptcy Law regulates the state of insolvency which states that: "If a reconciliation plan is not offered at a meeting of accounts receivable, the proposed reconciliation plan is not accepted, or the ratification of the settlement is rejected based on a decision that has obtained permanent legal force, for the sake of bankruptcy estate law is in a state of insolvency."

The legal consequences of insolvency include bankruptcy assets being immediately executed and divided unless there are certain considerations (eg business considerations). The curator must start the settlement and sell all of the bankruptcy assets (Article 184 Paragraph (1) of the Bankruptcy Law. Insolvency in the bankruptcy settlement stage is a stage where there will be no reconciliation until it is homologated and at this stage a settlement of the bankruptcy assets will be carried out. As for stages of settlement of bankruptcy assets by the Curator, according to the provisions of Article 16 Paragraph 1 of the Bankruptcy Law-PKPU, namely:

⁸Rilda Murniati., *Op.cit.* h. 109.

⁹Achmad Yani dan Gunawan Widjaja, *OP.Cit.* h. 135.

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a. Propose and carry out the sale of bankruptcy assets.

Several reasons mandated by the Bankruptcy Law, in the event that the Curator sells the assets of the bankrupt debtor:

- 1) To cover bankruptcy costs (Article 107 Paragraph (1) of the Bankruptcy Law);
- 2) Withholding goods results in losses (Article 107 Paragraph (1) of the Bankruptcy Law);
- 3) For the continuity of the Debtor's business (Article 56 Paragraph (3) of the Bankruptcy Law);
- 4) Goods are not needed to continue the Debtor's company (Article 184 Paragraph (2) of the Bankruptcy Law);
- 5) In the context of settlement (Article 184 Paragraph (1) of the Bankruptcy Law).

If the curator will sell the assets of the debtor, then the curator must propose the sale of the bankruptcy assets to the debtor. By still observing the provisions of Article 15 Paragraph (1) of the Bankruptcy Law, the curator must start the settlement and sell all bankrupt assets without the need to obtain the approval or assistance of the debtor, if:

- 1) The proposal to manage the debtor's company is not submitted within the specified time or the proposal has been submitted but was rejected; or
- 2) The management of the debtor company is stopped (Article 184 of the Bankruptcy Law).

In order to finance management and settlement actions, including curatorial services, all objects must be sold in public in accordance with the procedures specified in the laws and regulations.

If the sale in public is not achieved, then it can be done privately with the permission of the supervisory judge (Article 185 of the Bankruptcy Law).

b. Recording Debt Debt and Making a List of Distributions

Curator is a position that has the authority to carry out collection, inventory, recording and safeguarding the assets of bankrupt debtors under the supervision of a supervisory judge. All assets of the bankrupt debtor are under the power and authority of the curator. To be issued or sold, there must be permission from the curator and also the approval of the supervisory judge.

In a bankruptcy declaration decision, a curator and a supervisory judge must be appointed from among the court judges. The appointed curator must be independent, not have a conflict of interest with bankrupt debtors and creditors and not be handling bankruptcy and PKPU cases of more than 3 (three) cases. Within a period of no later than 5 (five) days after the date the curator and supervisory judge receive the bankruptcy declaration decision, the curator announces in the state gazette of the Republic of Indonesia and at least in 2 (two) daily newspapers stipulated by the supervisory judge, regarding the summary of the statement decision bankruptcy which includes the following matters:

- a. Name, address and occupation of the debtor;
- b. Name of supervisory judge;
- c. Curator's name, address and occupation;
- d. Name, address and occupation of members of the temporary creditors committee if appointed;



e. Place and time of the first meeting of creditors.

The announcement of the bankruptcy decision statement is announced in the State Gazette of the Republic of Indonesia and two daily newspapers which are determined by the supervisory judge, then the curator carries out the duties of managing and/or settling the bankrupt assets from the date the bankruptcy decision is pronounced, even though an appeal or review is filed against the decision. In carrying out its duties, the curator is not required to obtain approval and/or give prior notification to the debtor or one of the debtor's organs, even though in circumstances outside of bankruptcy such approval or notification is required. The curator can also make loans from third parties only in order to increase the value of bankruptcy assets.¹⁰

To carry out the management and settlement of the bankrupt debtor's assets, the curator must make a record of the bankrupt assets no later than 2 (two) days after receiving a letter of appointment as curator. Before making a record of all the bankrupt debtor's assets, the curator may invite members of the creditor committee to attend the process of recording the bankrupt debtor's assets carried out by the curator. The note made by the curator must be in such a form as to contain in detail all the bankrupt debtor's assets, both movable and immovable assets, as well as documents/securities related to the bankrupt debtor's valuables.¹¹

The process of recording the bankrupt debtor's assets, in addition to recording, the curator is also required to keep all letters, documents, money, jewelry, securities and other securities by providing proof of receipt to the bankrupt debtor. The records made by the curator consist of columns and divide items of bankrupt assets into groups of movable assets and immovable assets, which have clear and detailed specifications and their respective amounts. hand in hand with the approval of the supervising judge. The supervisory judge's approval is given in the form of signing a list of the bankrupt debtor's assets contained in the curator's records.¹²

After the curator has finished recording all the bankrupt debtor's assets, the curator must make a list stating the nature, amount of receivables and debts of the bankruptcy estate, the name and place of residence of the creditor along with the amount of each creditor's receivables, then the curator is obliged to put a record of the debtor's debts made. in the Registrar's Office of the District Court so that it can be seen by everyone without exception.¹³

c. Implementation of Announcement of Total Debts of Bankrupt Debtors by the Curator

The implementation of the announcement of the amount of the debtor's debt by the curator is carried out after the private record of the debtor's debt made by the curator must be complete and in accordance with all the assets of the bankrupt debtor in the field. Notes on debt made by the curator must first be signed by the curator himself and also signed by the supervisory judge as a sign of approval for the note of debt made by the curator.

¹⁰Raharyu Hartini, *Hukum Kepailitan*, UMM Press, Malang, 2014, h. 39

¹¹Kartini Mulyadi, *Perubahan pada Failisementverordening dan Peraturan Pemerintah Pengganti Undang-Undang No. 1 Tahun 1998 jo Undang-Undang No. 4 Tahun 1998 Tentang Perubahan Undang-Undang tentang Kepailitan Menjadi Undang-Undang*, (Seminar Hukum Bisnis Di Indonesia, 2003, h. 65

¹²Ishak, *Upaya Hukum Debitor terhadap Putusan Pailit*, (Jurnal Kanun Ilmu, No. 65, Tj. XVII (April, 2015, h. 189-215).

¹³Jono, *Hukum Kepailitan*, Sinar Grafika, Jakarta, 2015, h. 5

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In addition, the debt note made by the curator must also be signed by a member of the creditor committee if present and witness first hand when the debtor's debt note for bankruptcy is made by the curator. Prior to signing the bankrupt debtor's debt note by the curator, the curator is required to re-check all the bankrupt debtor's debts recorded in the debt note made by the curator, whether they are in accordance with the actual amount owed by the bankrupt debtor to his creditors. If the debt record is not in accordance with the debt note, changes (*renvooi*) can be made to the debt record that has been made by the curator so that it is in accordance with the actual debt amount of the bankrupt debtor. Changes in the number of debt notes made by the curator must request signatures of re-approval from the supervisory judge and members of the creditors' committee who were present and witnessed firsthand the making of the bankrupt debtor's debt records by the curator.¹⁴

Apabila pada pemeriksaan ulang catatan utang debitur pailit yang dibuat oleh kurator tersebut telah sesuai dengan jumlah utang yang sebenarnya yang telah diakui oleh debitur pailit maupun para kreditur, maka catatan utang debitur pailit yang dibuat oleh kurator tersebut telah memenuhi syarat untuk diumumkan pada kepaniteraan pengadilan negeri tempat dimana kasus kepailitan tersebut diputuskan.

After the bankrupt debtor's debt record made by the curator is correct and in accordance with the actual debt amount that has been recognized by the bankrupt debtor and also the creditors, the curator takes the debt note to the District Court where the bankruptcy case was decided, and then carries out the registration administratively at the Registrar's Office of the District Court and pay the registration fee at the Registrar's Office of the District Court. After obtaining proof of payment of the registration administration fee, the Registrar's Office of the District Court issues a permit for the announcement and a permit for the place to affix the announcement. After the announcement permit has been issued by the Registrar's Office of the District Court, the curator can announce the bankrupt debtor's debt record which is posted on the announcement board that has been determined by the Registrar's Office of the District Court so that it can be seen by everyone.

In general, it can be said that in the process of settling bankruptcy assets, the legal protection for debtors' rights is quite weak. Because since the pronouncement of the bankruptcy declaration decision by the court, the debtor will lose the right to manage his assets which are included as bankruptcy assets. As a result, the debtor is no longer able to legally act on his assets that are included in the bankruptcy estate, in this case the management of bankruptcy assets becomes the authority of the curator and/or BHP.

¹⁴Popy Indrayani, *Kepailitan*, Raja Grafindo Persada, Jakarta, 2015, h. 22



4. CONCLUSION

1. The debtor's rights in the process of settling bankruptcy assets are very weak, in which case the debtor will lose his right to control and manage his assets which are included in bankruptcy assets as stipulated in Article 24 Paragraph (1) of the Bankruptcy Law. However, in the event that the debtor is declared bankrupt, the law gives the debtor the right to submit a reconciliation plan, submit a postponement of debt payment obligations and submit an appeal and review, all of which are efforts to protect the rights of the debtor.
2. In the process of settling bankruptcy assets, the legal protection for debtors' rights is quite weak. Because since the pronouncement of the bankruptcy declaration decision by the court, the debtor will lose the right to manage his assets which are included as bankruptcy assets. As a result, the debtor is no longer able to legally act on his assets that are included in the bankruptcy estate, in this case the management of bankruptcy assets becomes the authority of the curator and/or BHP.

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