

ABSTRAK

Terdapat dua subjek hukum di Indonesia yakni orang dan badan hukum. Dalam melakukan suatu kegiatan usaha subjek hukum tersebut membutuhkan modal usaha. Pihak yang memberikan pinjaman tersebut dikenal dengan istilah kreditor sedangkan pihak yang menerima pinjaman kredit disebut sebagai debitur. Kedudukan kreditor diatur dalam Kitab Undang-undang hukum Perdata mulai dari Pasal 1132. Dalam pemberesan harta pailit di atur dalam Undang – Undang No. 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (UU Kepailitan dan PKPU). Terdapat Kreditor Separatis, Preferen dan Konkuren. Penelitian ini menggunakan metode penelitian yuridis empiris, yaitu metode penelitian hukum yang menggunakan data primer dan data sekunder seperti ketentuan, norma, regulasi, dan kaidah-kaidah hukum. Adapun hasil penelitian ini adalah bahwa jika kreditor separatis ingin melakukan eksekusi terhadap objek jaminan masih terdapat beberapa kendala misalnya penolakan dari pihak ketiga seperti buruh karena belum terpenuhi pembayaran upahnya, kemudian pihak ketiga yang menguasai tidak ingin mengkosongkan objek jaminan, benda yang menjadi objek jaminan telah dialihkan ke pihak ketiga. Sehingga kreditor separatis tidak mendapat kepastian hukum.

Kata Kunci : Kepailitan; Kreditor Separatis; Pemenuhan Hak;

ABSTRACT

There are two legal subjects in Indonesia, namely individuals and legal entities. In carrying out a business activity, the legal subject requires business capital. The party who gives the loan is known as the creditor while the party who receives the loan is called the debtor. The position of creditors is regulated in the Civil Code starting from Article 1132. In the settlement of bankruptcy assets, it is regulated in Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (Bankruptcy Law and PKPU). There are Separatist, Preferred and Concurrent Creditors. This study uses empirical juridical research methods, namely legal research methods that use primary data and secondary data such as provisions, norms, regulations, and legal rules. The results of this study are that if the separatist creditor wants to execute the object of the guarantee, there are still several obstacles, for example the refusal from third parties such as workers because their wages have not been fulfilled, then the controlling third party does not want to vacate the object of collateral, the object that is the object of the guarantee has been transferred to third parties. So that separatist creditors do not get legal certainty.

Keywords : Bankruptcy; Separatist Creditors; Fulfillment of Rights;