

**KEDUDUKAN OBJEK JAMINAN KEBENDAAN DENGAN KEPEMILIKAN
ATAS NAMA PIHAK KETIGA DALAM PROSES KEPAILITAN: Studi
Putusan Nomor 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst**

ABSTRAK

Adanya pemberian jaminan kebendaan oleh pihak ketiga dapat menimbulkan perebutan antara kurator dan kreditor dalam melakukan eksekusi objek jaminan apabila terjadi kepailitan seperti halnya pada Putusan Nomor 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst. Penelitian ini membawa beberapa rumusan masalah, yaitu bagaimana kedudukan objek jaminan kebendaan atas nama pihak ketiga serta bagaimana analisis *ratio decidendi* majelis hakim pada Putusan Nomor 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst yang memasukan objek jaminan kebendaan atas nama pihak ketiga ke dalam harta pailit. Penelitian ini merupakan penelitian yuridis normatif dengan pendekatan perundang-undangan dan pendekatan kasus. Data diperoleh berasal dari data sekunder dan data tersier berupa wawancara yang dikumpulkan dengan studi pustaka untuk dianalisis secara deskriptif kualitatif. Hasil penelitian menunjukkan bahwa jika mengacu pada Pasal 1 angka 1 jo Pasal 21 Undang-Undang Kepailitan maka kedudukan objek jaminan dengan kepemilikan atas nama pihak ketiga bukan termasuk harta pailit meskipun telah dibebankan jaminan kebendaan terhadap harta kekayaan tersebut sehingga *ratio decidendi* majelis hakim dalam memutus gugatan Nomor 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst telah keliru.

Kata Kunci: Harta Pailit, Kepailitan, Pihak Ketiga

POSITION OF MATERIAL GUARANTEE WITH OWNERSHIP ON BEHALF OF THIRD PARTIES IN BANKRUPTCY PROCESSES: Decision Study Number 08/Pdt. Sus- GII/ 2019/ PN. Niaga. Jkt. Pst

ABSTRACT

The provision of material guarantees by third party can lead to struggles between curators and creditors in carrying out the execution of collateral objects in the bankruptcy, as is the case with Decision Number 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst. This research brings several formulations of the problem, namely how is the position of the object of material guarantees on behalf of third party and how is the ratio decidendi analysis of the panel of judges in Decision Number 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst which includes objects of material guarantees for names of third party into bankruptcy assets. This research is a normative juridical research with statutory and case approaches. The data obtained comes from secondary data and tertiary data in the form of interviews collected by literature study to be analyzed descriptively qualitatively. The results of the study show that referring to Article 1 point 1 in conjunction with Article 21 of the Bankruptcy Law, the position of the collateral object with ownership on behalf of a third party does not include bankrupt assets even though material guarantees have been charged to these assets so that the ratio decidendi of the panel of judges in deciding lawsuit No. 08/Pdt.Sus-GLL/2019/PN.Niaga.Jkt.Pst has been mistaken.

Keywords: *Bankruptcy Assets, Bankruptcy, Third Party*