

ABSTRAK

TINJAUAN YURIDIS PEMBAYARAN IMBAL JASA KURATOR ATAS SUATU KEPAILITAN YANG TELAH DIBATALKAN BERDASARKAN PUTUSAN PENGADILAN (STUDI KASUS PENETAPAN NOMOR: 1/PDT.SUS-PEMBATALAN PERDAMAIAN/2022/PN.NIAGA.SMG)

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Putusan Mahkamah Agung Nomor 43 PK/Pdt.Sus-Pailit/2022 (“Putusan Pailit”) membatalkan Putusan Mahkamah Agung RI Nomor 874K/Pdt.Sus-Pailit/2022 (“Putusan PK Pailit”) yang mengakibatkan KSP Intidana tidak lagi dalam keadaan pailit atau kembali pada keadaan yang semula. Selama KSP Intidana dalam keadaan pailit yaitu pada tanggal 27 Juli 2022 sampai dibatalkan pada tanggal 18 November 2022 Kurator telah melaksanakan pekerjaannya sehingga Kurator tetap dibayar terhitung sejak tanggal 27 Juli 2022 sampai dengan tanggal 18 November 2022 sebagaimana dalam Penetapan *fee* kurator. Metode penelitian yang digunakan dalam Penelitian ini adalah menggunakan metode penelitian normative yuridis. Rumusan masalah yang pertama adalah bagaimana pelaksanaan pembayaran jasa kurator dalam hal dibatalkan oleh Pengadilan atas Putusan Mahkamah Agung dan yang kedua adalah bagaimana pembayaran dari suatu kurator yang dipailitkan yang memberikan kepastian hukum kepada Kreditor dan Debitur. Hasil pembahasan yang pertama adalah pelaksanaan pembayaran jasa kurator dalam hal dibatalkan oleh Pengadilan itu syarat dan tata caranya diatur dalam Peraturan Menteri Hukum dan HAM RI Nomor 18 Tahun 2021 tentang Pedoman Imbalan Jasa Bagi Kurator dan Penundaan Kewajiban Pembayaran Utang yang mana *fee* kurator dihitung berdasarkan masa kerja sebagai kurator, besarnya atau banyaknya kasus kepailitan yang selesai ditangani, nilai harta pailit yang pernah ditangani, hal yang terkait dengan rekam jejak Kurator selama proses pengurusan dan pemberesan, jumlah Kreditor, tempat keberadaan harta pailit yang ditangani dan kewajaran waktu yang diatribusikan dalam melaksanakan pekerjaan. Hasil pembahasan yang kedua adalah pembayaran *fee* kurator belum memberikan kepastian hukum dan keadilan hukum bagi Kreditor dan Debitur sebab Majelis Hakim keliru mempertimbangkan kewajaran waktu dalam Permenkumham *fee* kurator.

Kata Kunci: kepastian hukum, pembayaran imbal jasa kurator, kepailitan

ABSTRACT

LEGAL CERTAINTY OF PAYMENT OF CURATOR SERVICES FEE IN THE EVENT OF BANKRUPTCY CANCELED BY THE COURT (CASE STUDY DETERMINATION NUMBER: 1/PDT.SUS-PEMBALAN PEACE/2022/PN.NIAGA.SMG)

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Supreme Court Decision Number 43 PK/Pdt.Sus-Pailit/2022 (“Bankruptcy Decision”) annulled the Republic of Indonesia Supreme Court Decision Number 874K/Pdt.Sus-Pailit/2022 (“Bankruptcy PK Decision”) which resulted in KSP Intidana no longer being in a state bankruptcy or return to its original state. As long as KSP Intidana was in bankruptcy, namely on 27 July 2022 until it was canceled on 18 November 2022, the Curator had carried out his work so that the Curator continued to be paid from 27 July 2022 to 18 November 2022 as stated in the Curator's Fee Determination. The research method used in this research is a normative juridical research method. The first problem formulation is how to carry out payments for curator services in the event that they are canceled by the Court based on the Supreme Court Decision and the second is how payments from a curator who is in bankruptcy provide legal certainty to Creditors and Debtors. The first result of the discussion is the implementation of payment for curator services in the event that it is canceled by the Court, the terms and procedures are regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 18 of 2021 concerning Guidelines for Remuneration for Services for Curators and Postponement of Debt Payment Obligations where the curator's fee is calculated based on the length of service. as curator, the size or number of bankruptcy cases that have been handled, the value of bankruptcy assets that have been handled, matters related to the Curator's track record during the management and settlement process, the number of Creditors, the location of the bankruptcy assets handled and the reasonableness of the time assigned in carrying out the work. The second result of the discussion was that the payment of the curator's fee did not provide legal certainty and legal justice for creditors and debtors because the Panel of Judges erred in considering the reasonableness of the time in the Minister of Law and Human Rights Regulation on the curator's fee.

Keywords: *legal certainty, payment of curator fees, bankruptcy*