

ABSTRAK

KEADILAN DALAM PENGURUSAN DAN PEMBERESAN HARTA PAILIT MELALUI LELANG TERKAIT PENGEMBALIAN PIUTANG KREDITOR

**(Studi: Risalah Lelang Atas Penjualan Harta Pailit Yang Dikeluarkan Oleh
KPKNL Samarinda)**

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Penelitian ini bertujuan untuk mengkaji aspek keadilan dalam proses pengurusan dan pemberesan harta pailit oleh Kurator, khususnya terkait pengembalian piutang kepada kreditor dalam konteks risalah lelang yang dikeluarkan oleh KPKNL Samarinda. Penelitian ini menggunakan metode yuridis normatif serta pendekatan perundang-undangan dan pendekatan konseptual yang dihubungkan dengan pendekatan studi kasus terhadap proses lelang dalam perkara kepailitan PT Karebet Mas Indonesia (Dalam Pailit). Hasil penelitian ini menunjukkan bahwa tindakan Kurator dalam pengurusan dan pemberesan harta pailit yang tidak laku terjual dapat melaksanakan melalui penjualan di bawah tangan dengan izin hakim pengawas berdasarkan nilai limit yang diperoleh dari hasil penilaian oleh penilai independen, dengan syarat telah melakukan penjualan umum melalui lelang minimal 2 (dua) kali. Untuk keadilan pembagian bagi kreditor berdasarkan prioritasnya sesuai dengan prinsip *pari passu pro rata*. Apabila proses pemberesan harta pailit telah dinyatakan selesai namun kreditor belum memperoleh pelunasan secara penuh atas piutangnya, maka terhadap piutang tersebut tetap berlaku ketentuan umum sebagaimana diatur dalam Pasal 1131 Kitab Undang-Undang Hukum Perdata, yakni bahwa seluruh harta kekayaan debitor menjadi jaminan bagi pemenuhan utang-utangnya. Penelitian ini menyarankan perlunya perubahan Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang dengan mengatur secara rinci, detail dan komprehensif mengenai syarat-syarat penjualan harta pailit yang dilakukan oleh Kurator secara di bawah tangan demi tercapainya keadilan dan kepastian bagi debitor pailit dan para kreditor khususnya pengembalian piutang bagi kreditor konkuren.

Kata Kunci: Keadilan, Kurator, Kreditor, Debitor, KPKNL, Pengurusan dan Pemberesan.

ABSTRACT

JUSTICE IN THE ADMINISTRATION AND SETTLEMENT OF BANKRUPTCY ESTATE BY AUCTION IN RELATION TO THE RECOVERY OF CREDITORS' CLAIMS

***(Study: Auction Minutes for the Sale of Bankrupt Assets Issued by Samarinda
KPKNL)***

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This study aims to examine the aspect of justice in the administration and settlement of bankrupt assets by the Curator, particularly concerning the repayment of receivables to creditors in the context of auction minutes issued by the KPKNL Samarinda. The research adopts a normative juridical method, legislation approach and conceptual approach, and is connected to a case study approach focusing on the auction process in the bankruptcy case of PT Karebet Mas Indonesia (in bankruptcy). The results of this study indicate that the Curator, in administering and settling unsold bankrupt assets, may proceed with a private sale (underhand sale) with the approval of the supervising judge, based on a limit value obtained from an independent appraiser's valuation, provided that at least two public auctions have been conducted without success. The distribution of assets to creditors must observe the principle of pari passu pro rata, which ensures equal treatment according to their respective priorities. In the event that the settlement process of the bankrupt estate has been declared completed, yet the creditors have not received full repayment of their claims, the general provisions under Article 1131 of the Indonesian Civil Code shall apply, namely that all of the debtor's assets constitute collateral for the fulfillment of their debts. This study recommends an amendment to Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, to regulate in a detailed, specific, and comprehensive manner the requirements for the underhand sale of bankrupt assets by the Curator. Such regulation is necessary to ensure justice and legal certainty for bankrupt debtors and creditors, particularly regarding the repayment of claims for concurrent creditors.

Keywords: Justice, Curator, Creditor, Debtor, KPKNL, Administration and Settlement.