ABSTRAK

KEDUDUKAN HUKUM JAMINAN PIHAK KETIGA ATAS EKSEKUSI HARTA DEBITUR DALAM PROSES KEPAILITAN (STUDI KASUS PUTUSAN NO. 936 K/PDT.SUS-PAILIT/2023)

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Permasalahan hukum dalam kepailitan muncul ketika objek jaminan yang digunakan untuk menjamin utang debitor berasal dari pihak ketiga. Kondisi ini menimbulkan perdebatan mengenai kedudukan hukum jaminan pihak ketiga serta batas kewenangan kurator dalam memasukkan aset tersebut ke dalam boedel pailit. Penelitian ini bertujuan untuk menganalisis pertimbangan hakim mengenai kedudukan hukum jaminan pihak ketiga dalam eksekusi boedel pailit berdasarkan Putusan Nomor 936 K/Pdt.Sus-Pailit/2023 dan menganalisis perlindungan hak milik serta kepastian hukum bagi pihak ketiga dalam proses kepailitan. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Hasil penelitian menunjukkan bahwa pertimbangan hakim yang membenarkan pemasukan objek jaminan milik pihak ketiga ke dalam boedel pailit belum sepenuhnya mencerminkan perlindungan hukum terhadap hak milik pihak ketiga. Secara yuridis, pihak ketiga hanya bertanggung jawab sebatas objek jaminan dan utang yang dijamin, sehingga tidak dapat dipersamakan dengan debitor pailit. Oleh karena itu, diperlukan perlindungan hukum yang lebih jelas melalui pembatasan kewenangan kurator, penerapan prinsip kehati-hatian, serta penegasan bahwa aset pihak ketiga hanya dapat dimasukkan ke dalam boedel pailit apabila terdapat dasar hukum yang sah.

Kata Kunci: Kepailitan, Boedel Pailit, Jaminan Pihak Ketiga, Perlindungan Hukum.

ABSTRACT

THE LEGAL STATUS OF THIRD-PARTY SECURITY INTERESTS REGARDING THE FORECLOSURE OF A DEBTOR'S ASSETS INBANKRUPTCY PROCEEDINGS

(CASE STUDY OF JUDGMENT NO. 936 K/PDT.SUS-PAILIT/2023)

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Legal issues in bankruptcy arise when the collateral used to secure a debtor's debt originates from a third party. This situation gives rise to debate regarding the legal status of third-party collateral and the limits of the trustee's authority to include such assets in the bankruptcy estate. This study aims to analyze the judges' reasoning regarding the legal status of third-party collateral in the execution of the bankruptcy estate based on Judgment No. 936 K/Pdt.Sus-Pailit/2023 and to analyze the protection of property rights and legal certainty for third parties in the bankruptcy process. This study employs a normative legal research method using statutory, conceptual, and case-based approaches. The results of the study indicate that the judges' reasoning justifying the inclusion of third-party collateral into the bankruptcy estate does not yet fully reflect legal protection for third-party property rights. Legally, third parties are liable only to the extent of the collateral and the secured debt; therefore, they cannot be equated with the bankrupt debtor. Therefore, clearer legal protection is needed through limitations on the trustee's authority, the application of the principle of prudence, and the affirmation that third-party assets may only be included in the bankruptcy estate if there is a valid legal basis.

Keywords: Bankruptcy, Bankruptcy Estate, Third-Party Collateral, Legal Protection.