

Legal Analysis Of Debtor Debt Realization Of Creditor Through Bankruptcy

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Abstract: The purpose of this study is as follows to study and analyze how the implementation of debt settlement debt law to creditors in commercial court of Makassar, and to know the factors that slow the process of debt settlement of debtors to creditors in commercial court of Makassar. This study uses a normative approach, namely research on legal principles and legal synchronization both vertical and horizontal.

Keyword: Legal Analysis, Debtor Debt, Bankruptcy

Date of Submission: 16-04-2018

Date of acceptance: 02-05-2018

I. INTRODUCTION

Bankruptcy is a condition in which the debtor is unable to make payments on the debts of his creditors. The situation is not able to pay normally due to the financial condition (financial distress) of the debtor business that has been declining. While the bankruptcy is a court decision that resulted in general confiscation of all the wealth of bankrupt debtors, both existing and existing in the future. Bankruptcy management and settlement is carried out by the curator under the supervision of a supervisory judge with the sole purpose of using the proceeds of the sale of such property to pay the entire debtor's debt in proportion (prorate parte) and in accordance with the creditor structure.

The world of business is never independent of issues of agreement and debt, with its respective risks, namely the default of the agreement and the debt is not paid. Arrangements on default, generally agreed in the agreement itself, either through litigation or non litigation. While non-payment of debt is required, arrangements that can be used quickly, openly and effectively to provide opportunities for parties to seek a fair settlement, namely bankruptcy law.

The Civil Code (hereinafter referred to as the Indonesian Civil Code) is the general basis of bankruptcy law in Indonesia, in particular the provisions of Articles 1131 and 1132. The provisions of Article 1131 bear the principle of schuld and haftung, that each person is liable for his debt, providing all his wealth, if need to be sold to settle its debts, and the provisions of Article 1132 contain the creditorum parity principle, that every creditor has the same position with respect to other creditors unless determined by law for having a valid reason to take precedence over other creditors. Furthermore, special arrangements on bankruptcy have been made and the current Act of the Republic of Indonesia Number 37 Year 2004 Regarding Bankruptcy and Postponement of Obligation of Debt Payment.

In the mechanism of bankruptcy law, the concept of debt is decisive, because in the absence of debt, bankruptcy loses its essence as a legal institution to liquidate the debtor's assets to pay its debts to its creditors. Simply put, debt is money borrowed from others; the obligation to pay back what has been received. Specifically, however, the provision of Article 1 point (6) of UUKPKPU states that debt is a liability expressed or may be expressed in the amount of money, either directly or in future or contingent, arising out of contract or law and which must be fulfilled by the debtor and if not fulfilled give the creditor the right to obtain the fulfillment of the debtor's assets. UUKPKPU interpreted the debt widely, so the debt is not only arising from the loan-borrowing agreement only.

Understanding the debt in UUKPKPU is so widespread, causing confusion in the application of bankruptcy law. Issues of default that should be resolved through mechanisms of contract law may be transferred through the mechanism of bankruptcy law, because default in the law of the agreement can be considered as debt in bankruptcy law. This happens because in addition to the issue of understanding the debt is so widespread is also accompanied by so lenient requirements to apply for declaration of bankruptcy that does not confirm the state of any debt that can serve as the basis for filing a petition for bankruptcy statement.

Subject to the provision of Article 2 paragraph (1) of UUKPKPU, the request for bankruptcy statement may be filed against the debtor having two or more creditors and not paying off at least one debt that has fallen and can be collected. This provision does not pertain to bankruptcy as the reason debtors do not repay debt, since the notion of "not paying" can mean not being able to pay or not pay. Similarly, in the explanatory section, there is no explanation of the meaning of the phrase "not paying the debt", so that the provision of Article 2 Paragraph (1) contains a blurred norm which may cause confusion in assessing the state of the debtor which should be filed for a bankruptcy statement. In addition, the requirements in this provision are very simple and less sharpened, such as concerning the insolvency or bankruptcy of the debtor's finances, making it easier to apply for the Bankruptcy Statement, thus providing an opportunity for filing a bankruptcy statement against debtors that should not be bankrupted. In the event that the debtor is unable to pay the debt (insolvent), then the mechanism of bankruptcy law becomes the right choice. However, in the case of the debtor refusing to pay, the borrower must pay attention to the reason of the debtor not to be willing to pay the debt even if it is solvent, that is because the debtors are intended to be debtors, the debtor's obligation derived from a reciprocal agreement, and the debtor will not fulfill because the creditor has defaulted that in the law of agreement known as the *exceptio inadimpleti contractus*.

Default is a condition under the law of the contract, in which a person does not fulfill or does not perform the achievements as set out in an agreement, and in case of default, there must be a violation of the legal interest, an interest regulated and protected by law. Considering that the default only occurs within the contract law, it should be settled through the mechanism of the treaty itself, since it is often not merely due to the negligent action of either party to the agreement but also the deliberate response to the actions of the other party *wanprestasi* first, especially in terms of execution of agreements which are reciprocal.

In mutual agreements, the positions of the parties as creditor and debtor take turns in accordance with the agreed clauses. The incurrence of an obligation to perform an achievement is the result of the fulfillment of a right to the achievement which is the condition of the existence of such obligation, so that in the event of a breach of default in the execution of reciprocal agreement, if resolved through the mechanism of law of agreement (civil) then the opposing party (defendant) may defend the case by proposing an *exceptio inadimpleti contractus*.

The consideration of such an exception will be put forward by the defendant, raising the idea that the settlement through the mechanism of the treaty law will not be easy to win by the plaintiff, so it is deemed to be easier to resolve through the mechanism of bankruptcy law, given that if both requirements for filing a bankruptcy declaration have been fulfilled, then based on the provision of Article 8 Paragraph (4) UUKPKPU the judge shall grant the request for bankruptcy statement.

If a bankruptcy statement is imposed on a solvent debtors solely on the basis of the formal requirement, it is not appropriate for the settlement of the breach of the agreement, and may even be considered an "error in treatment" of the problem, aspects of mutual agreement law, especially the commitment of the parties' rights and responsibilities in achieving the achievements.

The provision of Article 1 number (1) of UUKPKPU states that bankruptcy is a common confiscation of all the assets of the bankrupt debtor whose management and ordering is carried out by the Curator under the supervision of the Supervisory Judge as stipulated in this law. Considering the effects of public confinement, bankruptcy is a severe event for the bankrupt debtor, since the element of public law has changed its legal status to incompetence to do legal deeds, control and manage its property since the verdict of bankruptcy declaration is pronounced, including its relationship with all creditors- his previously unprofitable creditors. Therefore, the decision of bankruptcy declaration should only be the last resort principle / *ultimum remedium* for the debtor that should be declared bankrupt only, so it should be deemed necessary to improve the provisions in UUKPKPU, especially regarding the definition of debt which is part of the requirement for filing a statement bankrupt. Should the arrangement in bankruptcy law assert that the cases that can be solved through bankruptcy law mechanism is only a case of not paying against the background of the debtor's bankruptcy, not because of the background of the dispute or the difference of opinion.

Concerns about the possibility of a difference of opinion on the definition of debt occurs in the lawsuit of three companies namely PT. BANK NEGARA INDONESIA (PERSERO) Tbk, PT. SOURCE INDO CELLULER, as well as spare parts company in Makassar against Litha & co allegedly experienced bankruptcy, debt pituang. One of the assets in the form of two-storey building owned by Litha & Co on Jl Gunung Merapi in execution. Decision of Commercial Court of Makassar to bankrupt Litha in Supreme Court (MA) Decision Number 156 / PK / Pdt.Sus / 2013, Date January 7, 2013, Fa Litha is not in a state of Bankruptcy. causing controversy from various circles including lawyers, practitioners, and judges. The decision makes us have to review what is the definition of the debt. under the provisions of Article 222 paragraph (3) of the Bankruptcy and PKPU Law, it is stipulated that the Creditor who predicts that the Debtor is unable to continue repaying his debts that have been matured and may be invoiced may request the Debtor to be postponed of the obligation to repay the debt to enable the Debtor to propose a includes a partial or total debt offer to its Creditors;

With regard to the description above, it is necessary to conduct research to sharpen the concept of debt in bankruptcy law, so as not to be refracted by the concept of wanprestasi in the law of agreement that is not relevant to the essence of bankruptcy itself, as one of the efforts to emphasize that the problems in the law of the agreement and can easily be brought to completion in the mechanism of bankruptcy law, moreover and especially in the case of *exceptio inadimpleti contractus* case, because the existence of *exceptio inadimpleti contractus* is one of the considerations of the creditor divert the settlement of the debtor's default problem to be resolved through the mechanism of bankruptcy law .

In reformulating the concept of debt in bankruptcy law, it should be noted that the location of the legal liability is essentially on the part of the cause of the problem and with respect to the parties' agreement, as well as the source of the debt obligation.

In the business world today, the transfer of settlement of problems of default on the law of agreement through bankruptcy law mechanism has occurred several times, such as bankruptcy case that originated from a cooperation agreement which is a reciprocal agreement but when there is a problem of default, one party brought the settlement through legal mechanism bankruptcy. Based on the definition of debt on UUKPKPU is so vast, then the petitioned party is declared bankrupt. The wanprestasi case that should be settled under the treaty law (civil) is solved by a bankruptcy mechanism that ignores the *exceptio inadimpleti contractus* as an important element in the case.

II. THEORETICAL FRAMEWORK

1. Theory of Agreement

The meaning of the agreement as contained in Article 1313 of the Civil Code states that an agreement is an act of one or more persons committed to one or more persons. Another opinion expressed by Rutten in Prof. Purwahid Patrik stating that the treaty is an action that occurs in accordance with the formalities of the existing rule of law depends on the conformity of the will of two or more persons intended for the emergence of legal consequences of the interests of one party at the expense of the other party or for the benefit of each other. mutually beneficial parties.

From the opinions above, it can be concluded that in the agreement there are several elements, namely.

1. There are parties. The Parties herein are subject to the agreement of at least two persons or legal entities and shall have the authority to perform legal acts as provided by law.
 2. There is agreement between the parties, which is fixed and not a negotiation.
 3. There is a goal to be achieved. It is intended that the purposes of the parties should not be contrary to public order, morality and law.
 4. There are achievements that will be implemented. It is intended that achievement is an obligation that must be fulfilled, by the parties in accordance with the terms of the agreement.
- . There are certain forms, oral or written. This means that the agreement can be poured orally or in writing. This is in accordance with the provisions of the law stating that only with certain forms of a treaty has binding strength and strong evidence.

Legal Terms of Agreement

As for the validity of an agreement required four conditions (Article 1320 Civil Code), namely:

1. Agree those who bind themselves. Their binding agreement is an essential principle of covenant law. This principle is also called the principle of Consensualism which determines the covenant. The principle of Consensualism contained in Article 1320 Civil Code contains the meaning of "willingness" of the parties to mutual achievement, there is a willingness to bind each other.
2. Skills are required to make an appointment. Regarding skills, Subekti explained that a person is incompetent when he is generally in accordance with the provisions of the law unable to make their own agreements with the full legal consequences. The incompetent are the law-abiding people, the children, the adults who are placed under surveillance (*curatele*), and the mentally ill.
3. A certain thing. This means that certain things are objects that are regulated in the credit agreement must be clear, at least can be determined. So the object of the agreement, should not be faint. It is important to provide assurance or assurance to the parties and prevent the creation of fictitious credit agreements.
4. A lawful cause. It is intended that the contents of the credit agreement should not be contrary to legislation, which is forcing, disturbing / violating public order and or morality.

2. Theory of Legal Purposes

Ideology des Recht mentions the existence of three elements of legal ideals that must exist proportionally, namely legal certainty (*rechtssicherheit*), justice (*gerechtigkei*t) and expediency (*zweckmasigkeit*). If it is related to the theory of law enforcement as presented by Gustav Radbruch in *idee des recht* that law enforcement must meet the three theories.

Theory is something that is the focus of thinking or thinking. Principle can also mean basic law. Principle is a general proposition expressed in general terms without requiring special ways of its implementation applied to a series of deeds to be a good guide to the action. The principle of common law is the basic norm outlined by the positive law and which by law is not considered to come from the more general rules. The principle of law is the precipitation of positive law in a society. The principle of law should not be regarded as concrete legal norms, but should be regarded as the general basis or guidance for applicable law. The Law of the Republic of Indonesia Number 37 of 2004 concerning Bankruptcy and Postponement of Obligation of Debt Payment aims to make bankruptcy proceedings more prompt, fair and open. The law also aims to provide fair protection to safeguard the interests of creditors as well as debtors. On the one hand the purpose of creditors to obtain claims on their debts can be done immediately, while on the other hand the debtor can still be guaranteed to continue the business. Law Number 37 Year 2004 regarding Bankruptcy and Postponement of Debt Payment Obligation stipulates that the settlement of bankruptcy proceedings in court is not the last way in debt settlement.

To achieve these objectives, Law Number 37 Year 2004 regarding Bankruptcy and Suspension of Debt Payment Obligation to implement several principles in the settlement of bankruptcy cases in court. These principles include 5 (five) principles, namely the principle of justice, the principle of bankruptcy rather than as an ultimatum, the principle can be known by the public (open), the principle of settlement of the case quickly, and the principle of proof in a simple.

Based on the regulation in RI Law no. 37 of 2004 concerning Bankruptcy and Postponement of Obligation of Debt Payment, the three elements of law enforcement have been accommodated in the law. The concept of legal certainty is summed up in the principle of settling the case quickly and the principle of proof is simple. The element of justice in law enforcement is reflected in the principle of justice, while the elements of expediency can be seen as the principle of bankruptcy as the ultimate ultimate remediation (ultimatum) and Principle can be known by the public (open).

III. DISCUSSION

1. Principle of Quick Case Settlement and Simple Proof Principle as Reflecting the Theory and Principle of Legal Certainty

Legal certainty can be interpreted that a person will be able to obtain something to be expected under certain circumstances. Certainty is defined as clarity of the norm so that it can be used as guidance for the society imposed by this rule. Understanding certainty can be interpreted that there is clarity and firmness towards the enactment of law in society. This is not to cause much misinterpretation. Legal certainty is the clarity of behavior scenarios that are general and binding all citizens including the legal consequences. Legal certainty can also mean things that can be determined by law in concrete matters. Legal certainty is a guarantee that the law is enforced, that the rightful under the law may obtain its rights and that the judgment can be exercised. Legal certainty is a fair protection against arbitrary action that means that one will be able to obtain something to be expected under certain circumstances. The law is in charge of creating legal certainty as it aims to create order in society. Legal certainty is a feature that can not be separated from the law especially for written legal norms. Law without legal certainty value will lose meaning because it can no longer be a guideline of behavior for all people.

The bankruptcy decision imposed by the commercial court and the Supreme Court decision of Supreme Court must be made in no more than 60 days, while the decision of the request for review must be made within 30 days. This time limit provision is aimed at ensuring the bankruptcy procedure in court is executed more quickly. RI Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations does not provide an opportunity for unsatisfied parties to the bankruptcy decision imposed by the commercial court to file a legal appeal to the high court. This is different from the settlement of civil cases (which at that time included bankruptcy cases) that occurred in the district court. Unsatisfied parties to the court's decision to file a court of law may file an appeal, cassation or judicial review. There is no provision to provide an appeal law in RI Law no. 37 Year 2004 concerning Bankruptcy and Suspension of Debt Payment Obligation is intended to fulfill the principle of settling bankruptcy cases quickly.

The simple proof principle means that the decision of bankruptcy must be made by the judge if there is a fact or circumstance proven simply that the requirements for bankruptcy under the provisions of Article 2 paragraph (1) of Law Number 37 Year 2004 concerning Bankruptcy and Delay of Obligation of Debt Payment have been fulfilled. This principle relates to the principle of settling things quickly. This simple proof is necessary in order for the settlement of bankruptcy proceedings in court to be resolved more quickly. In the request for legal re-examination in PT Kadi International case against PT. Wisma Calindra, the Supreme Court of the Republic of Indonesia ruled that the relationship between the appellant of the review and the requested party to the review is a relationship based on mutual agreement. Based on this agreement each party has the rights and obligations on a reciprocal basis. In both cases, both parties alike have broken their promises. Each party should be given an

opportunity to prove the question of the occurrence of this promise in court proceedings. Based on this, the judge made the conclusion that the proof of the case is not simple and easy. The judge then argued that the case could not be resolved through a petition in the commercial court but must be filed through civil proceedings in the district court.

The element of legal certainty in law enforcement may also be deducted from the provisions of the provisions as regulated in Article 2 paragraph (1) of Law Number 37 Year 2004 concerning Bankruptcy and Postponement of Obligation of Debt Payment. In this provision stipulates that a debtor who has two or more creditors and fails to pay off at least one debt that has been matured and may be collected is declared bankrupt by a court decision, either on his own request or at the request of one or more of his creditors. Based on the provisions of Article 2 paragraph (1) of RI Law Number 37 Year 2004 concerning Bankruptcy and Suspension of Debt Payment Obligation is the legal certainty to the person who is obeyed if it has fulfilled the existence of three conditions, namely there must be debt; one of the debts has sufficient time and can be collected; and the debtor has at least two or more creditors.

The requirement of bankruptcy as stipulated in Article 2 paragraph (1) of RI Law Number 37 Year 2004 concerning Bankruptcy and Suspension of Debt Payment Obligation is very simple indeed. Debtor with the ability to pay the debt can be bankrupted by the court when the three conditions of bankruptcy ie there must be debt; one of the debts has sufficient time and can be collected; and the debtor has at least two or more creditors normatively fulfilled.

The court rulings (judges) can illustrate the following: first, insolvency of PT Asuransi Jiwa Manulife (PT AJMI) in the Case between Paul Sukran, S.H. against PT. Manulife Life Insurance Indonesia (AJMI) [Central Jakarta Commercial Court Verdict Number 10 / Bankrupt / 2002 / PN.Niaga.Jkt.Pst.]; secondly, PT Prudential Life Assurance's insolvency in the Lee Boon Siong case against PT Prudential Life Assurance [Central Jakarta Commercial Court Decision Number 13 / Bankrupt / 2004 / PN.Niaga.Jkt.Pst]; and third, PT Telkomsel's bankruptcy [Central Jakarta Commercial Court Number 48 / Bankrupt / 2012 / PN.Niaga.JKT.PST].

2. Justice Principles Conclude from the Principle of Justice in Court Examination

Justice becomes one of the basic values of human life and is a classic problem that is never solved completely. The absence of conformity in the sense of justice encourages people to attempt to define and define according to their own backgrounds and experiences. Justice is defined as a constant and continuous sharing of rights for everyone. The constant and perpetual disposition to render every man his due. Justice demands that each case be weighed. *Ius suum cuique tribuere*.

The essence of justice is the judgment of a treatment or action by studying it with a norm which, according to the subjective overview exceeds other norms. The law should contain justice, but the law itself is not identical with justice because there are legal norms that do not contain the value of justice.

Law Number 37 Year 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations was established in order to protect the interests of creditors if the debtor did not pay its debts. The protection of the interests of this creditor should not be detrimental to the interests of the debtor. Therefore, the principle of justice for the interests of both parties is strongly emphasized in the law.

Law Number 37 Year 2004 regarding Bankruptcy and Postponement of Debt Payment Obligations introduce this principle with fair terms. The goal is to realize debt settlement faster, fair, open and effective. In the case of PT. WRS Indonesia v. Rodney Alexander Bothwell, the judge ruled that in principle the bankruptcy law aims to create a balance of interests between the interests of the debtor, the creditor and the public interest. The interest of the debtor, ie the desire to be able to continue his business without the need to drop the bankruptcy and at the same time can pay the debt. The interests of the creditor are safeguarded by hastening its debts, while the interests related to the general public are the preservation of commerce in the community

Review of Bankruptcy Law

In Law no. Law No. 37 Year 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations while the creditor's definition is a person who has receivable due to an agreement or a billable bill before the court.¹⁷ However in the elucidation of Article 2 paragraph (1) of Law no. 37 of 2004 provides the definition of creditor in this paragraph is either a concurrent creditor, a creditor of a separatist or a preferred creditor. Especially with regard to the separatist creditors and the preferred creditors, they may apply for a bankruptcy statement without loss of collateral rights to the material possessions they have on the debtor's property and the right to take precedence.

A debtor is a person who has a debt due to an agreement or law whose repayment can be billed in court. In addition, as for other notions creditor and debtor ie creditor is the bank or other financing institutions that have accounts receivable due to agreement or law. A debtor is a person or business entity that has a debt to a bank or other financing institution due to an agreement or law. The bankrupt debtor is a debtor who has been

declared bankrupt by Court Decision. The term creditor also often lead to multiple interpretations. Especially in the era of Law no. 4 of 1998 there are 3 (three) creditors known in the Civil Code, namely as follows:

Concurrent creditor

This concurrent creditor is regulated in Article 1132 Civil Code. The concurrent creditor is the creditor with the right of passau and pro rata, meaning that the creditors collectively get paid (without any precedence) calculated on the basis of the amount of the respective receivables compared to their receivables as a whole, to the entire property of the debtor. Thus, the concurrent creditors have the same position of debt repayment from the debtor's property without any priority.

Preferred creditor

That is the creditor which by law, solely because of the nature of the receivables, get the repayment first. Preferred lender is a privileged creditor, a right which by law is granted to a debtor so that the rate is higher than that of the other indebted person, solely based on the nature of the receivables. To find out which accounts are privileged can be seen in Articles 1139 and Article 1149 of the Civil Code. According to Article 1139 the accounts which are privileged against certain items include:

- a. The cost of a case which is solely caused by a punishment for auctioning a moving or immovable object. This fee is paid from the sale of the item in advance of all other privileged receivables, even earlier than from pledge and mortgages;
- b. Rents from immovable property, repair costs incurred in the obligations of the lessee, together with all matters relating to the obligation to fulfill the lease agreement;
- c. The purchase of unpaid movable objects;
- d. Costs incurred to save an item;
- e. The cost of doing the work on an item, which remains to be paid to a craftsman.
- f. What an innkeeper has handed over to such a guest;
- g. Transport wages and additional costs.
- h. What to pay to masons, carpenters and other builders for the construction, addition and repair of immovable property, provided that the receivables are not older than three years and the property rights of the parcels remain on the debtor.
- i. Replacement and payment to be borne by an employee holding a public office, due to all negligence, mistakes, offenses and crimes committed in his / her position.

Whereas Article 1149 of the Civil Code determines that the allowable receivables of all movable and immovable property in general are those mentioned below, the receivables which are repaid from the sales revenue of such items in the following sequence:

1. Court costs, which are solely attributable to the auction and settlement of an inheritance, these costs take precedence over mortgages and mortgages;
2. Burial costs, without prejudice to the power of the judge to reduce them, if the cost is too high;
3. All costs of care and treatment of the last illness;
4. The wages of the bururh during the past year and the wages already paid in the current year, along with the sum of money on wage increases;
5. Receivables due to the delivery of food items made to the debtor and his family, during the last six months;
6. Accounts receivable of entrepreneurial school entrepreneurs, for the last year;
7. Receivables of immature children and persons who are afflicted with all their guardians and supervisors.

As for securities creditor That is the creditor holder of material security rights in the brake, which in the Civil Code is called by the name of mortgage and mortgage. An important right that a secured creditor owns is the right to authorize itself to sell / execute collateral objects, without a court decision (parate execution).

3. Dispute Settlement Through Litigation in Commercial Courts

Litigation is a dispute resolution system through the judiciary. Disputes that occur and are examined through litigation will be examined and decided by a judge. The settlement of disputes through litigation is regulated in Law No. 48 Year 2009 on Judicial Power, regulating settlement through general courts and special courts. Through this system it is impossible to achieve a win-win solution because the judge must pass a verdict on which one party will be the winner and the other will be the loser.

The steps taken are to involve legal advisers (legal adviser) in making and or mengalikasi contract to be signed by business actors. What matters is, how about if at the beginning of the contract, the parties only rely on mutual trust, then arise disputes, how to resolve disputes faced by businesspeople. In settling disputes through the judiciary, the parties take into consideration the applicable principle in the lawsuit-sued through the courts.

One important principle is who argues, is obliged to prove the truth of his proposition. This principle is spelled out in article 1865 KUHPP which states that *'Anyone who postulates that he has a right or a right to uphold his own right or deny any right of another person, appoint an event, is required to prove the existence of such right or event.'*

Therefore, if the business dispute resolution is selected through the judiciary, there are several points to consider, namely the plaintiffs must prove the truth of the argument. In addition, the plaintiff must know exactly where the defendant lives, as a lawsuit must be filed in the defendant's residence, This principle is known as Actor Secutor Forum Rei.

In accordance with Article 1 number 7 of Law Number 37 Year 2004 concerning Bankruptcy and Postponement of Debt Payment Obligation ("Bankruptcy Law"), The process of settling bankruptcy cases in Indonesia is conducted in the Commercial Court ("Courts") within the general judicature. An examination hearing on the request for bankruptcy statement shall be held within no later than 20 (twenty) days after the date on which the application is registered. Upon the request of the debtor and on the basis of sufficient grounds, the Court may suspend the holding of the hearing until no later than 25 (twenty five) days after the date of the application being registered. The Court's decision on the request for bankruptcy statement shall be pronounced no later than 60 (sixty) days after the date of the request for bankruptcy statement to be registered. The Court's Decision shall include:

Certain articles of the relevant legislation and / or source of unwritten law as the basis for adjudication; and Legal considerations and opinions that differ from the member judges or the chair of the assembly.

The decision on the request for bankruptcy declaration containing the complete legal considerations underlying the decision shall be pronounced in the hearing open to the public and may be carried out in advance, even though such judgment shall be brought by a legal action.

Under Article 10 of the Bankruptcy Law, as long as the decision on the request for bankruptcy declaration has not been pronounced, any creditor, prosecutor, Bank Indonesia, Capital Market Supervisory Agency or the Minister of Finance may apply to the Court to: place confiscation of any or all of the debtor's assets; or appoint a temporary curator to oversee: the management of the debtor's business; and payments to creditors, transfers, or collateral of debtor wealth in the bankruptcy is the authority of the receiver.

For the purposes of bankruptcy property, can be requested for cancellation of any deed of the debtor's law that has been declared bankrupt which is detrimental to the interests of the creditor. The cancellation is submitted to the Court before the decision of the bankruptcy declaration is pronounced. Cancellation can only be made if it can be proved that at the time the legal act is committed, the debtor and the other party concerned, knowing that the legal act will result in harm to the creditor.

A court with a decision of a bankruptcy statement, on the recommendation of a Supervisory Judge, a request for a curator, or at the request of a creditor or more and upon hearing the Supervisory Judge, may order that the bankrupt debtor be detained, whether placed in the State Detention Service or at his own home, appointed by the Supervisory Judge. The order of detention is carried out by the prosecutor appointed by the Supervisory Judge.

IV. CONCLUSION

1. Bankruptcy is a process whereby a debtor who has financial difficulties to pay his debt is declared bankrupt by the court, in this case the Commercial Court, because the debtor can not pay its debts. Debtor assets can be distributed to creditors in accordance with government regulations. \

2. Debt Settlement of Debtors to Creditor through bankruptcy is essentially a series of processes starting from the petition for bankruptcy declaration, stewardship and ordering of bankrupt property, and the last is the end of bankruptcy. Debt Settlement Debt to Creditor through bankruptcy can be solved in two ways, that is by way of peace (akkoord) and by way of ordering of bankrupt property. A settlement by way of peace may occur if the Debtor submits a peace plan and is approved by the Creditor in accordance with Article 151 of the Manpower Act and obtains ratification under a court of law with a permanent legal force. Settlement by means of bankruptcy securities may occur if the Debtor does not propose a peace plan or propose a peace plan but rejected by the concurrent creditor or the endorsement of the peace is rejected on the basis of the decision of the Court having a permanent legal force.

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IOSR Journal Of Humanities And Social Science (IOSR-JHSS) is UGC approved Journal with Sl. No. 5070, Journal no. 49323.

Rahmat Eko Prabowo "Legal Analysis Of Debtor Debt Realization Of Creditor Through Bankruptcy." IOSR Journal Of Humanities And Social Science (IOSR-JHSS). vol. 23 no. 04, 2018, pp. 61-68.