



Summary Proof of Postponement of Debt Payment Obligations Through Act Number 37 of 2004 (Study of Decision Number 7/PDT.SUS-PKPU/2022/PN NIAGA MEDAN)

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Abstract

Debt is a liability that arises through an agreement made between a debtor and a creditor. Debt is used as a basis for bankruptcy or for submitting a delay in payment of the debtor's debt. Summary Proof of Bankruptcy and Postponement of Debt Payment Obligations (PKPU) has actually been regulated in Article 8 paragraph (4) of Law Number 37 of 2004 and strengthened by Supreme Court Decision (MA) No.109/KMA/SK/IV/2020 concerning "Enforcement of the Handbook for Settlement of Bankruptcy Cases and PKPU". Summary Proof can be a reference for the Panel of Judges in granting PKPU applications by debtors or creditors to the Commercial Court. The PKPU application submitted through Decision Number 7/Pdt.Sus-PKPU/2022/PN Niaga was rejected by the Panel of Judges because the Panel of Judges considered that the non-fulfillment of the 'simple debt' requirement that had to be fulfilled was one of the burdens of proof in the application for PKPU.

Keywords: Debt; Summary Proof; Postponement

A. Introduction

The business entity is the driving force for every type of business that includes: activities carried out in the economic field that aim to earn profit. Business entity activities are now growing rapidly to scale global market has a positive impact on entrepreneurs in developing business through various business opportunities, but regardless of the positive impact earned by entrepreneurs, the development of the global economy also brought negative impact considering the legal principle *Het recht thinkt achter defeitnaan* or law follows the development of society which is aimed at urgency companies that need legal regulations that can regulate the problem accounts payable with applicable legal principles.

Accounts payable is part of the law that is closely related to economic activity includes individuals or business entities that stated in the agreement between the debtor and the creditor. Agreement in debt Receivables are basically regulated in Article 1313 of the Civil Code which states: that "Agreement/agreement is an act in which a person or several persons bind himself with other people through rights and obligations between parties regulated in Article 1754 of the Civil Code which states that "The loan agreement use up is an agreement made in which one party gives to other parties a certain amount of goods that are used up and parties that use the goods must return the goods in the amount and same condition".

Renewal of bankruptcy regulations in Indonesia has been carried out several times follow the development of society and economic globalization where initially using the Criminal Code, Criminal Code, Code de Commerce, Faillissements verordenen, Perpu No. 1 of 1998 which was passed into law Number 4 of 1998 and then refined into a law Number 37 of 2004 concerning "Bankruptcy and PKPU" (hereinafter referred to as UUK PKPU).

Payables arising from loan agreements and obligations constitute the basis used to bankrupt the debtor due to non-fulfillment an achievement that has been regulated in Article 1233 of the Civil Code which regulates "Agreement gives birth to an agreement, both caused by law". The basic provisions regarding debt conditions are regulated in Article 2 paragraph (1) of the PKPU UUK which means it is an obligation arising from an agreement that has fallen due and can be collected from debtors who have two or more creditor.

The Panel of Judges granted the bankruptcy petition, which will have legal consequences or have implications for the assets of the debtor or bankrupt debtor such as rights in managing assets that have passed into the hands of the curator as well the right to carry out various legal remedies that have an impact on assets that must be carried out by the curator.

The curator is required to have expertise in conducting management, tabulation, arrangements in the management of the debtor's assets, announcing judge's decision on bankruptcy declaration through state news and newspapers by the judge supervisors, record inventories of bankrupt debtors' assets, as well as a list of accounts payable assets of the bankrupt debtor.¹ Communication relations between curators, debtors and creditors. This is

¹ Cok Istri Bhagawanthi Pelayun and I Ketut Westra, "Kewenangan Kurator Dalam Pemberesan Aset Debitor Pailit yang Berupa Saham Pada Perseroan Terbatas," *Kertha Semaya: Journal Ilmu Hukum* 8, no. 8 (2020): 1182, <https://doi.org/10.24843/KS.2020.v08.i08.p06>.

important considering that the curator is the manager of the assets of bankrupt debtors and creditors also has the right to know how the process of paying debts by debtors through sale or auction of bankrupt assets.

Solutions that can be implemented by debtors or creditors to prevent the determination of the bankruptcy decision by the Panel of Judges through the Commercial Court is by taking a legal effort through peace, namely adjournment Debt Payment Obligations (PKPU).² PKPU is peace in progress bankruptcy which has the same principles as peace in general done by humans through the 'agreement', the agreement here means the existence of rights or obligations that must be achieved by the parties which in implementing PKPU, the agreement is realized through the debtor and creditors to the proposed peace plan.

Provisions of Article 8 paragraph (4) UUK PKPU which states that bankruptcy petition can be granted by the Commercial Court if it is proven simple. ⁵ This summary proof must fulfill the bankruptcy requirements has been regulated in Article 2 paragraph (1) and applies equally to PKPU applications which can be granted by the Commercial Court if the proof is simple meet the requirements set forth in Article 222. Summary proof in Bankruptcy or Postponement of Debt Payment Obligations (PKPU) cases have differences with evidence through civil procedural law considering the handling of bankruptcy cases and PKPU conducted at the Commercial Court which adheres to the principles of fast, cheap, and simple. Summary proof in the practice of holding postponements Debt Payment Obligation (PKPU) is still often misunderstood and multiple interpretations by the Panel of Judges. Lack of inconsistent application of the law by The Commercial Court in determining summary proof between decisions in PKPU cases resulted in weak law enforcement and creditors as well the debtor does not get legal certainty.

This started with Decision Number 7/Pdt.Sus-PKPU/2022/PN Niaga Mdn stating that the reason for filing the PKPU application by the Petitioner PKPU (Tommy Bellyn Wiryadi, S.H) against PKPU Petitioner (PT Sawit Inti Prima Perkasa) occurs because both parties already have a legal relationship in the form of cooperation where the Respondent PKPU has debts that are due and can be billed with a value of Rp. 250,000,000.00 (two hundred and fifty

² Ivan Harsono and Paramita Prananingtyas, "Analisis Terhadap Perdamaian Dalam PKPU dan Pembatalan Perdamaian Pada Kasus Kepailitan PT Njonja Meneer," *Notarius* 12, no. 2 (2019): 1069, <https://doi.org/10.14710/nts.v12i2.29154>.

million rupiah), PKPU Respondent who did not carry out his obligations to pay off debts to the PKPU Petitioner and the PKPU Respondent also have debts to another creditor, namely Hasan. Further to the above, this article which titled “Summary Proof of Postponement of Debt Payment Obligations (PKPU) through Law Number 37 of 2004” has a research objective namely to find out the role of Law Number 37 of 2004 or UUK PKPU provides arrangements regarding simple evidentiary requirements in submission of PKPU to bankruptcy practices.

Therefore, this article is written with one main problem formulation, which is in regard to the role of Law Number 37 of 2004 in providing arrangements concerning simple evidentiary requirements in submissions PKPU on bankruptcy practices. In addition, this article wishes to deliver 2 (two) benefits, namely:

- a. Providing development by adding knowledge to business actors including the debtor or creditor regarding the terms and procedures for filing PKPI; and
- b. Providing input to practitioners in the field of bankruptcy law so that can they can have better understanding of the mechanism of Bankruptcy Procedural Law in proving of debts between debtors and creditors.

Further to the above, the type of research used for this article is normative legal research. So the research was analyzed by qualitative methods which means each formulation and the discussion is based on legal norms, doctrines, and theories. Also, the nature of this research is descriptive because there is a detailed explanation of the problems contained in this research. Also, the sources of data used in this study consist of:

- a. Primary legal material is the main legal material that is authoritative for used as an object of research which includes:
 - 1) The 1945 Constitution
 - 2) Civil Code
 - 3) Law Number 37 of 2004 concerning “Bankruptcy and PKPU”
 - 4) Decision Number 7/Pdt.Sus-PKPU/2022/PN Niaga Mdn
 - 5) Decision Number 8/Pdt.Sus-PKPU/2022/PN Niaga Mdn
- b. Secondary Legal Materials are legal materials that are non-binding and used to complement Primary Legal Materials, namely:
 - 1) Scientific Books

2) Accredited National Scientific Journal

It is important to understand that all the data above, are collected through study library method with electronic media as the primary medium. To be exact, literature study carried out at the Pelita Harapan University library in the Medan Campus and study case obtaining an attachment to the decision from the Medan District Court, accessing data through the internet where the data obtained is valid and factual data related to the writing of scientific books written by lawyers and scholars. Then, the data analysis applied in this research is descriptive because the analysis is carried out by selecting important data related to the formulation problem.

B. Discussion

B. 1. Theoretical Review of PKPU

PKPU which stands for "Suspension of Obligations Debt Payment (suspension of payment/debt moratorium)" given to the debtor where it is intended that the debtor is in state of insolvency, have the opportunity to propose peace, either in the form of an offer to pay the debt in whole or in part debt owned or by restructuring (rescheduling) on debt. Likewise with the creditor, if he feels that the debtor has if you are unable to pay your debts to him, you can take this method apply for PKPU.³

PKPU provides an opportunity for debtors to make payments as well as fulfilling his obligations on his debts so that he is not declared bankrupt. UUK PKPU emphasizes that during the PKPU process, the debtor cannot be filed for bankruptcy. During the PKPU process, the debtor may still be entitled to his wealth, it's just that the debtor loses freedom to control his wealth. If the debtor wants to manage his assets, this is permissible as long as he gets proper approval given by the management, then the debtor and the management have a relationship closely involved in the PKPU process.

The existence of the PKPU UUK is used in order to realize it development of national law through a just and prosperous society based on the basis of the state and the 1945 Constitution which aims to support implementation of national economic development.⁴ Embodiment in purpose national development especially through the defense of business

³ Kartini Mulyadi, *Pedoman Menangani Kepailitan* (Depok: Rajawali, 2005), 23.

⁴ Serlika Aprita, "Meluruskan Logika Pemerintah Soal Kegentingan Moratorium UU Kepailitan dan PKPU," *ADALAH* 6, no. 6 (2022): 21, <https://doi.org/10.15408/adalah.v6i6.27582>.

continuity especially in matters of debt, there are several factors that require regulation regarding Bankruptcy & PKPU, namely:

- a. Preventing seizure of the debtor's property from several creditors who are collecting debts."
- b. Claiming rights through the sale of the debtor's goods by creditors holding material rights without regard to the interests of the debtor/other creditors."
- c. Prevent acts of fraud by creditors/debtors, for example: Debtors who commit fraud with the intention of escaping all assets by disposing of responsibility for their debts to creditors.

As a result of this rationale, the UUK PKPU was made based on the following principles, namely:

- a. **The Principle of Balance**
The principle of balance aims to prevent it from happening deep inequality between debtors and creditors who have bad faith in the Bankruptcy administration process and PKPU."
- b. **The Principle of Business Continuity**
The principle of business continuity provides opportunities for actors businesses, especially debtors, so that the company can continue to run despite being constrained by debt problems.
- c. **The Principle of Justice**
The principle of justice fulfils 'justice' for debtors and creditors especially in avoiding arbitrariness on creditors in trying to repay debts by the debtor without paying attention stipulated conditions."
- d. **Integration Principle**
The principle of integration opens space for debtors and creditors through a more adequate legal system in resolving disputes debts fairly, openly, effectively, and quickly.

Pursuant to Law Number 37 of 2004 concerning Bankruptcy and PKPU which has experiences various changes, especially in the inclusion of the word 'PKPU' and which What's interesting is that there have also been changes that allow creditors to apply for PKPU. Article

222 of the Bankruptcy Law and PKPU regulates regarding the parties who can apply for PKPU, namely:

(1) Article 222 paragraph (1)

“The Suspension of Obligations for Payment of Debt is submitted by the Debtor who has more than 1 (one) Creditor or by Creditors”.

(2) Article 222 paragraph (3)

"Creditors who estimate that the debtor cannot continue to pay its debts that are due and can billed, may request that the Debtor be given a delay debt payment obligations, to enable the Debtor submitted a peace plan that included a payment offer part or all of the debt owed to its creditors”.

Creditors and debtors are not allowed to simply apply for PKPU against the Court because it must be accompanied by "a list containing the nature, the amount of receivables, and also the debtor's debt accompanied by evidence letter "in moderation." The minimum requirements that must be met for creditors or the debtor in submitting a Suspension of Debt Payment Obligations stipulated in Article 222 paragraph (2) of the PKPU Law which stipulates that if "the debtor who feels he is no longer able to pay off his debts is due and can be billed by the creditor, then he can submit a proposal peace to creditors." This applies equally to "creditors who feel that the debtor is no longer able to pay his debts which are due and billable, then he can apply for PKPU against the debtor” which is regulated in Article 222 paragraph (3) UUK PKPU.

Further to the above, the implementation of postponement of obligations for payment of debt according to the law are divided into 2 (two) types, namely:

- 1) Temporary PKPU;
- 2) Fixed PKPU;

Classification through temporary and permanent PKPU provides a clear, deep path its implementation where both always start with a temporary PKPU which headed to the voting stage of the creditors who then waited the granting of a permanent PKPU whose extension is determined by the Commercial Court.⁵

⁵ Demi Amrih Ivida, *Hukum Kepailitan Kepastian Karakteristik Renvoi Prosedur Dalam Perkara Kepailitan* (Yogyakarta: Laksbang Justitia, 2020), 189.

The management is required to be able to announce the temporary PKPU decision through the State Gazette of the Republic of Indonesia with at least 2 (two) daily newspapers which has been determined by the Supervisory Judge, if at the time of the temporary PKPU pronounced already submitted in the peace plan by the debtor, this matter must be mentioned in the announcement which must be done within the timeframe a maximum of 21 (twenty one) days before the planned trial date.

The trial that takes place will present the debtor, supervisory judge, administrators and creditors. The meeting may also discuss the agenda plan peace attached together with the PKPU application provisional submitted by the plaintiff prior to the trial. Voting is permitted as long as there is no court decision declared that PKPU ended.

Article 228 paragraph (6) UUK PKPU provides arrangements regarding limits time that must be fulfilled regarding the PKPU period which includes PKPU temporary and fixed PKPU which may not exceed 270 (two hundred and seventy) days after the temporary PKPU was pronounced. This causes the debtor to bankruptcy no later than the following day. The PKPU extension requirements are fixed as determined by the Court Commerce through Article 229 of the Bankruptcy Law and PKPU is "if it is approved by more than 1/2 (one half) of the number of concurrent creditors present at the trial and has represented at least 2/3 (two thirds) of the entire bill of concurrent creditors who were present at the hearing. "Requirements approval through separatist creditors is "if more than 1/2 (one per two) the number of creditors whose receivables are secured by mortgages, fiduciary guarantees, rights dependents, mortgages, or collateral rights on other materials present and represent at least 2/3 (two-thirds) of the entire creditor bill or power of attorney present at the trial."

B. 2. The Liability of a Limited Liability Company in the Event of Bankruptcy and Postponement of Debt Payment Obligations

The bankruptcy of a Limited Liability Company is very close to the liability of a Limited Liability Company as a legal entity. Article 1 paragraph (1) of the Limited Liability Company Law confirms that a Limited Liability Company is a legal entity. With its status as a legal entity, it means that the company is domiciled as a subject, as a supporter of rights and obligations as is the case with people and has its own assets separate from the assets of its

founders, shareholders and management. As a legal entity, a Limited Liability Company is the owner of its own rights and obligations, which can be sued or sued in court. Such a position has the consequence that its existence as a legal entity does not depend on the will of its founders or members but on something determined by law. The rights and obligations of the Limited Liability Company are exercised by the company's organs, namely the GMS, the Board of Directors and the Board of Commissioners (Article 1 paragraph (2) of the Company Law). In carrying out its business activities, a Limited Liability Company may experience failure where there is a lawsuit against him for the fulfillment of achievements which causes the Limited Liability Company to submit a bankruptcy statement by its creditors to the Commercial Court which ultimately causes the Limited Liability Company to be declared bankrupt. This bankruptcy statement will affect the existence of the Limited Liability Company itself, especially regarding the business continuity of the Limited Liability Company and the assets of the Limited Liability Company. This is because in accordance with the provisions of Article 21 of the Bankruptcy Law and PKPU, bankruptcy results in general confiscation of all of the debtor's assets.

A Limited Liability Company fulfills the element of being a legal entity because a Limited Liability Company has the following characteristics: (1) as a capital association; (2) the assets and debts of the company are separate from the assets and debts of the shareholders; (3) Shareholders: There is a separation of functions between shareholders and management or Directors; (4) has a Commissioner who functions as a supervisor; (5) the highest authority resides in the General Meeting of Shareholders (GMS). The privilege of a Limited Liability Company is that the assets between the company's assets and the personal assets of the shareholders (*persero*) are separated. So that the shareholders are not personally responsible for all engagements made on behalf of the company and are also not responsible for the company's losses exceeding the value of the shares included.

a. Responsibilities of the Board of Directors

Provisions in the event of bankruptcy of a Limited Liability Company are regulated in Article 104 paragraph (2), paragraph (3), and paragraph (4) of the Limited Liability Company Law which states:

- (2) In the event that bankruptcy as referred to in paragraph (1) occurs due to the fault or negligence of the Board of Directors and the bankrupt assets are not sufficient

to pay all of the Company's obligations in said bankruptcy, each member of the Board of Directors is jointly and severally responsible for all outstanding liabilities from the bankruptcy estate. the.

- (3) The responsibility referred to in paragraph (2) also applies to members of the Board of Directors who are wrong or negligent who have served as members of the Board of Directors within a period of 5 (five) years prior to the pronouncement of the decision to declare bankruptcy.
- (4) Members of the Board of Directors are not responsible for the bankruptcy of the Company as referred to in paragraph (2) if they can prove:
 - a. the bankruptcy is not due to his fault or negligence;
 - b. has conducted management in good faith, prudence, and full responsibility for the interests of the Company and in accordance with the aims and objectives of the Company;
 - c. does not have a conflict of interest, either directly or indirectly, for the management actions taken; And
 - d. has taken action to prevent bankruptcy.

b. Responsibilities of the Board of Commissioners

Provisions on the responsibilities of the board of commissioners in the event of bankruptcy of a Limited Liability Company are regulated in Article 115 of the Limited Liability Company Law:

- (1) In the event of bankruptcy due to the mistake or negligence of the Board of Commissioners in supervising the management carried out by the Board of Directors and the Company's assets are insufficient to pay all of the Company's obligations due to the bankruptcy, each member of the Board of Commissioners is jointly and severally responsible with members of the Board of Directors for unpaid obligations.
- (2) The responsibilities referred to in paragraph (1) also apply to members of the Board of Commissioners who have not served for 5 (five) years before the decision to declare bankruptcy was pronounced.
- (3) Members of the Board of Commissioners cannot be held responsible for the bankruptcy of the Company as referred to in paragraph (1) if they can prove:
 - a. the bankruptcy is not due to his fault or negligence;
 - b. has carried out supervisory duties in good faith and prudence for the benefit of the Company and in accordance with the aims and objectives of the Company
 - c. has no personal interest, either directly or indirectly, in the management actions by the Board of Directors which result in bankruptcy; And
 - d. has provided advice to the Board of Directors to prevent bankruptcy.

c. Shareholder responsibility

If the requirements for a Limited Liability Company as a legal entity are complete and legal to become a legal entity, the shareholder is only responsible for the number of shares owned in a Limited Liability Company. The provisions on the responsibility of Shareholders for a Limited Liability Company are regulated in Article 3 of the Limited Liability Company Law: The shareholders of the Company are not personally responsible for the engagement made on behalf of the Company and are not responsible for the Company's losses exceeding the shares owned.

Furthermore, in this theoretical review, we can also see the initial review of Summar Proof, which can be defined by understanding more of the basis of PKPU. In this case, the object that is the basis for holding and carrying out bankruptcy proceedings and PKPU is 'debt'.⁶ One definition of debt described by Munawir are: "All financial obligations of a company to other parties that unfulfilled, where this debt is a source of funds or capital companies originating from creditors"⁷, the elements contained in debt are an unfulfilled obligation. The concept of debt used as an object of proof is simple bankruptcy and PKPU proceedings have been regulated in Article 1 paragraph (6) of the PKPU UUK. Setting the concept of debt gives rise to the notion that debt arises due to an agreement or law that is judged by an amount of money, if it is connected with the arrangement in Article 8 paragraph (4) UUK PKPU stating that the application for bankruptcy and PKPU must be proven simple by using the concept of debt that already meets the requirements bankruptcy and PKPU where the debtor already has two or more creditors and is no longer able to pay its debts.⁸

B. 3. The Basis of Debt as a Condition for Postponing Debt Payment Obligations

The implementation of handling bankruptcy cases and PKPU requires a foundation that is used as a basis in implementing the provisions of Article 1131 Civil Code and Article 1132 Civil Code Civil Law which states:

Article 1131 of the Civil Code:

⁶ Kheriah, "Independensi Pengurus Penundaan Kewajiban Pembayaran Utang (PKPU) dalam Hukum Kepailitan," *Jurnal Ilmu Hukum Riau* 3, no. 2 (2013): 245.

⁷ Munawir, *Analisa Laporan Keuangan* (Yogyakarta: Liberty, 2004), 54.

⁸ Wicara Kertha, "Pembuktian Sederhana dalam Perkara Kepailitan oleh Agen Sindikasi Kredit sebagai Pemohon Pailit," *Jurnal Ilmu Hukum* 7, no.3 (2018): 9.

"All of the debtor's assets, both movable and immovable, are good existing or new ones that will exist in the future, become responsibility for all his personal engagements."

Article 1132 "The Civil Code":

"The material is a joint guarantee for all people who owe him; The sales revenue of the objects is divided according to the balance, namely according to the size of each receivable unless among the creditors there are valid reasons for take precedence."

The regulation of the two articles which is the source of the existence of the regulation bankruptcy and PKPU show that the individual, namely the debtor, is the party that the debtor certainly has assets that will be used as collateral to creditors who have entered into an agreement with the debtor, assets The assets referred to include assets that are currently owned or will be owned later.

The main requirements for filing for bankruptcy and PKPU in the PKPU UUK are: 'debt' which is defined as "obligations that must be fulfilled by the debtor through fulfilling or settlement arising from the engagement either directly or at a later date", therefore, in essence, debt is an obligation that must be met by the debtor.

The engagement carried out must fulfil the perfect engagement in which meet the standard legal requirements of an agreement set forth in Article 1320 Civil Code:

- (1) Their binding agreement;
- (2) The ability to make engagements;
- (3) A certain subject matter
- (4) Halal causes;

Fulfilling of the agreement through the legal terms of an agreement is very important, if engagements arising through invalid agreements (*natuurlijke verbintenis*), then the creditor or debtor will find it difficult to prove the will debt that arises between the two so that it will hinder the filing process bankruptcy or PKPU.⁹

Debt in bankruptcy and PKPU proceedings is generally caused when the debtor has debts that have matured, debts owned by the debtor collectible, and the debtor's debt is not or

⁹ Prof.Rahayu Hartini, *Hukum Kepailitan* (Malang: Universitas Muhammadiyah, 2017), 45.

has not been paid in full.¹⁰ Circumstances is in accordance with the provisions stipulated in Article 2 paragraph (1) UUK PKPU.

The description on the definition of 'due' and 'billable' has significant difference between the two which was explained by the expert law Prof. Sutan Remy Sjahdeini.¹¹ Article 2 paragraph (1) UUK PKPU stipulates that "Debtors who have two or more creditors and do not pay in full at least one debt that is past due and collectible", therefore, the statement of the article can provide the meaning:

- 1) Debt debtors that are collectible but not yet due;
- 2) The debtor's debt that has matured automatically becomes a debt that has matured billable;¹²

Article 2 paragraph (1) of the PKPU UUK is often the cause for rejection of cases bankruptcy and PKPU because the debtor or creditor has difficulty or cannot prove debts that are past due and collectible are, however, debts deemed past due and collectible must rely on what has been agreed between the debtor and the creditor considering that the agreement has been contained achievement between the parties to give and do something.

Debt as an object that is used as one of the parameters in bankruptcy proceedings and PKPU considering the principle of distribution of property assets debtors to all creditors must be carried out with the principle of justice. Principle justice which has the core of justice and truth based on "Pancasila and the 1945 Constitution which is used to support and guarantee certainty, order, law enforcement and protection."

B. 4. Sitting Case on Decision Number 7/Pdt.Sus-PKPU/2022/PN Niaga Mdn

Tommy Bellyn Wiryadi, S.H "hereinafter referred to as the Petitioner PKPU who submitted the PKPU application" to PT SIPP, which is next referred to as PKPU Respondent on 25 February 2022 with that motive Respondent PKPU, PT SIPP did not make debt payments

¹⁰ Ni Nyoman Juliantini, et.al, "Prosedur dan Akibat Hukum Penundaan Kewajiban Pembayaran Utang Perseroan Terbatas (Studi Kasus Putusan Nomor 3/PKPU/2010/PN.Niaga.Sby)," *Jurnal Analogi Hukum* 3, no.1 (2021): 102, <https://doi.org/10.22225/ah.3.1.2021.101-105>.

¹¹ Sumurung P. Simaremare, et.al, "Politik Hukum Jangka Waktu Penundaan Kewajiban Pembayaran Utang di Indonesia," *Jurnal Ius Constituendum* 6, no. 1 (2021): 111, <http://dx.doi.org/10.26623/jic.v6i1.2915>.

¹² Sutan Remy S, *Hukum Kepailitan Memahami Undang-Undang No. 37 Tahun 2004 Tentang Kepailitan* (Jakarta: Grafiti, 2010), 42.

to the Petitioner PKPU according to the time agreed in the agreement. Here will be details of the a quo case are attached:

1. That there is a debt that has matured owned by Respondent PKPU, with details as follows:

a. The bill is based on an agreement between Tommy Bellyn Wiryadi, S.H. with PT SIPP in 'Provision of Legal Services'

- 1) Whereas the PKPU Respondent has unpaid debts to the PKPU Petitioner with a value of Rp. 250,000,000.00 (two hundred and fifty million rupiah).
- 2) Whereas referring to the debt, through letter Number: 86/KH NR/XII/2021 dated 06 December 2021 regarding the letter subpoena. The PKPU applicant has submitted a warning letter to the Respondent PKPU to be able to immediately pay off the bill owed to the PKPU Petitioner.
- 3) Whereas subsequently the PKPU Petitioner submitted another letter warning to the Respondent PKPU by letter Number: 93/KH NR/XII/2021 dated 20 December 2021 regarding the letter subpoena. Finally, but up to the time of this PKPU Petition submitted by the PKPU Respondent has not yet made a payment all debts with a total of Rp. 250.000.000,- (two hundred fifty million rupiah).
- 4) Whereas the obligations of the PKPU Respondent towards the PKPU Petitioner attached to the invoices are as follows:

	No. Invoice	Date of Invoice	Total of Invoice
1	08/KH-NR/II/2021	02 February 2021	Rp.25.000.000,-
2	15/KH-NR/III/2021	02 March 2021	Rp.25.000.000,-
3	20/KH-NR/IV/2021	02 April 2021	Rp.25.000.000,-
4	29/KH-NR/V/2021	02 May 2021	Rp.25.000.000,-
5	37/KH-NR/VI/2021	02 June 2021	Rp.25.000.000,-
6	48/KH-NR/VII/2021	02 July 2021	Rp.25.000.000,-
7	56/KH-NR/VIII/2021	02 August 2021	Rp.25.000.000,-
8	64/KH-NR/IX/2021	02 September 2021	Rp.25.000.000,-

9	70/KH-NR/X/2021	02 October 2021	Rp.25.000.000,-
10	70/KH-NR/X/2021	02 November 2021	Rp.25.000.000,-
TOTAL			Rp. 250.000.000,-

Table 1. Attachment of PT SIPP Debt Against the Petitioner PKPU Tommy B.W.

Based on the attached invoice, the Respondent's debt PKPU has matured since 02 November 2021, so that the debt can be collected by the PKPU Applicant. PKPU applicants are known to have made online billing appropriate, but the Respondent PKPU still did not give responses that show good faith make payment of its obligations to PKPU Petitioner.

2. Whereas based on the facts and descriptions attached to the invoice, then it can be legally and convincingly proven that an incident has occurred legal relationship between the PKPU Petitioner and the PKPU Respondent based on the Legal Services Agreement and Bill of Payment Invoice Legal Service Fees (debt that is past due and collectible) with a value of Rp. 250,000,000.00 (two hundred and fifty million rupiah). Legal capacity (legal standing) possessed by the Petitioner PKPU as a legal creditor can apply for PKPU a quo against the PKPU Respondent as having fulfilled the requirements for filing PKPU in Article 222 paragraph (3) of the PKPU Law.
3. That there are facts where the Respondent PKPU has debts to other creditors, namely Hasan's brother acting as 'other creditors'.
 - 1) The PKPU Respondent and Other Creditors have been bound in a agreement where Other Creditors act as FFB Suppliers (Fresh Fruit Bunches) which are then processed into CPO (Crude Palm Oil) by Respondent PKPU
 - 2) Transaction agreements executed by Other Creditors and The PKPU respondent always uses the invoice issuance method, Another creditor, Brother Hasan, has billed Respondent PKPU with details as follows:

No	No. Invoice	Date	Total of Invoice
1	INV/TBS/020-12/2021	25 December 2021	Rp.439.275.790,-

2	INV/TBS/001-2021	30 December 2021	Rp.143.605.380,-
3	INV/TBS/001-2021	30 December 2021	Rp.506.650.600,-
TOTAL			Rp.1.089.531.770,-

Table 2. Appendix of Debt of PT SIPP Against Other Creditor Hasan

Based on the invoice, the Respondent PKPU has obligations in the form of debt to Other Creditors with the total value of the invoice is Rp.1,089,531,770.00 (one billion eighty nine million five hundred thirty one thousand and seven hundred and seventy rupiah) so that the debt of the Respondent PKPU to other Creditors referred to is also a debt that is past due and collectible.

4. That based on factual evidence from other creditors, it has been proven legally and simply that the Respondent PKPU has more than 1 (one) creditor and against the PKPU Respondent's debt to the Petitioner PKPU and other creditors have matured and can billed, so that the a quo PKPU request has been fulfilled conditions as referred to in the provisions of Article 222 paragraph (1) and (3) UUK PKPU.
5. That the a quo PKPU petition has fulfilled the facts and The state can be proved simply by the existence of two or more conditions creditors and debts that are past due and unpaid in accordance with the provisions in Article 8 paragraph (4) UUK PKPU. Whereas the PKPU Petitioner requested the Panel of Judges on case a quo in order to grant the submitted application for PKPU as well as determining the status of Debtor or Respondent PT SIPP in PKPU circumstances While for the next 45 (forty five) days.

B. 5. Summary Proof of PKPU Submission Through Decision Number 7/Pdt.SusPKPU/2022/PN Niaga Mdn

UUK PKPU in Law Number 37 of 2004 has provide arrangements for the meaning of 'debt' in article 1 paragraph (6), namely: "Debt is an obligation that is expressed in a good amount of money in currency Indonesian currency or foreign currency, either directly or arising at a later date, which arise due to agreements or laws and is mandatory fulfilled by the debtor. The essence of 'debt' is an obligation that must be fulfilled by the debtor and the debt was born

because of a legal and perfect agreement binding on the parties where it has been regulated in the legal terms of the agreement Article 1320 of the Civil Code.

The definition of debt provided by Article 1 paragraph (6) of the PKPU UUK if associated with the requirements for filing Bankruptcy and PKPU which have been regulated in Article 2 paragraph (1) UUK PKPU which means debt is an obligation that arises as a result of an agreement that has matured and can be billed to the debtor if you have two or more creditors. Decision Number 7/Pdt.Sus PKPU/2022/PN Niaga Mdn stems from the submission of a PKPU application by Tommy, who has complied with the basic provisions for filing a PKPU set out in Article 222 paragraph (3) UUK PKPU which states that: "Creditors who estimate that the Debtor will not be able to continue paying his debts is due and can be collected, can request that the Debtor be given postponement of debt payment obligations, to enable the Debtor put forward a peace plan that includes a partial payment offer or all debts owed to creditors.

The basis in Article 222 paragraph (3) of the PKPU Law is strengthened by an annex proof of agreement from PKPU Applicant and PKPU Respondent to each the attached of decision, namely:

	No. Invoice	Date of Invoice	Total of Invoice
1	08/KH-NR/II/2021	02 February 2021	Rp.25.000.000,-
2	15/KH-NR/III/2021	02 March 2021	Rp.25.000.000,-
3	20/KH-NR/IV/2021	02 April 2021	Rp.25.000.000,-
4	29/KH-NR/V/2021	02 Mei 2021	Rp.25.000.000,-
5	37/KH-NR/VI/2021	02 June 2021	Rp.25.000.000,-
6	48/KH-NR/VII/2021	02 July 2021	Rp.25.000.000,-
7	56/KH-NR/VIII/2021	02 August 2021	Rp.25.000.000,-
8	64/KH-NR/IX/2021	02 September 2021	Rp.25.000.000,-
9	70/KH-NR/X/2021	02 October 2021	Rp.25.000.000,-
10	73/KH-NR/XI/2021	02 November 2021	Rp.25.000.000,-
TOTAL			Rp.250.000.000,-

Table 3. Appendix to PT Sawit Inti Prima Perkasa's debt invoice

against brother Tommy B.W, S.H in Decision Number 7/Pdt.SusPKPU/2022/PN Niaga

Debts attached to the invoice with a total nominal value of Rp. 250,000,000.- (two hundred and fifty million rupiah) as referred to as obligations arising from the Cooperation Agreement for the Provision of Legal Services of PT SIPP with Tommy B.W, S.H. The cooperation agreement is carried out within the term within a year with a nominal value of Rp. 300,000,000.- (three hundred million rupiah), method the payment agreed between the two was that the Respondent PKPU (PT SIPP) will pay IDR 25,000,000 (twenty-five million rupiah) every month in the period from December 2020 to November 2021, however, PT SIPP only pays its debts in the period December 2020 and month January 2021 to Brother Tommy.

As a result of non-fulfillment of obligations in the form of debt payments, then on December 6, 2021, Brother Tommy sent a subpoena as a form of warning to PT SIPP to immediately make payments payment, but since there was no further response from PT SIPP, then Brother Tommy again sent a letter of subpoena last on date December 20, 2021.

An additional fact that the PKPU application was made by you Tommy as the PKPU Petitioner included Brother Hassan who is 'Other Creditors' with a nominal value of Rp. 1,089,531,770.00 (one billion eighty nine million five hundred thirty one thousand seven hundred seventy rupiah) which has matured since December 30, 2021. This should be done considering the requirements for filing PKPU have been regulated in Article 8 paragraph (4) of the PKPU Law which states: "Application for a bankruptcy statement must be granted if there are facts or circumstances that are proven simple that the requirements to be declared bankrupt are as intended in article 2 paragraph 1 has been fulfilled", the meaning of "facts and circumstances" is:

1) The fact that there are two or more creditors:

Creditor 1 (PKPU Petitioner) : Tommy Bellyn Wiryadi, S.H

Creditor 2 (other creditor) : Hasan

The fact that there are at least 2 creditors in Decision Number 7/Pdt.Sus PKPU/2022/PN Niaga Mdn HAS BEEN FULFILLED.

2) Facts of overdue and unpaid debts:

Debt to Creditor 1 (PKPU Applicant): IDR 250,000,000 (two hundred fifty million rupiah) as referred to as arising liabilities because the Cooperation Agreement for the Provision of Legal Services has expired since November 2, 2021.

Debt to Creditor 2 (other creditors): IDR 1,089,531,770.00 (one billion eighty nine million five hundred thirty one thousand seven hundred and seven tens of rupiah) as referred to as liabilities arising from Agreement for the Supply of Fresh Fruit Bunches which has been due since 30 December 2021.

The fact that there is a debt that is due and collectible on Decision Number 7/Pdt.Sus-PKPU/2022/PN Niaga Mdn HAS BEEN FULFILLED.

The basis for submitting a Bankruptcy or PKPU application remains based on simple evidence regulated in Article 8 paragraph (4) UUK PKPU refers more to the essence of proving the 'existence' of debt, isn't it to the amount of debt held by the debtor.

C. Conclusion

Summary proof in PKPU as regulated in Article 8 paragraph (4) UUK PKPU which emphasizes 'facts' which include the existence of two or more creditors and debts that are past due and not paid by the debtor, meanwhile the 'circumstances' state that the debtor is considered incompetent make payment of its debts. Debt owned by PT Sawit Inti Prima Perkasa debtors to creditors has complied with the method of 'summary proof' that has been regulated in Article 8 paragraph (4) UUK PKPU and Article 2 paragraph (1) UUK PKPU as basic requirements for submission application for bankruptcy or PKPU against the debtor, then the Decision Number 7/Pdt.Sus PKPU/2022/PN Niaga Mdn is a decision that is "inappropriate and inaccurate" because there are errors in the application and interpretation of the law on understanding 'debt' in simple terms in Bankruptcy and PKPU practices. After all, the authors hoped that the Government through the Ministry of Law and Human Rights can provide dissemination or dissemination of information and education to business people who includes creditors or debtors regarding bankruptcy administration practices and PKPU so that it will reduce fraudulent actions in enforcement practices bankruptcy law and PKPU. The Commercial Judge appointed by the Supreme Court is obligatory has fulfilled the requirements in Article 302 paragraph (2) UUK PKPU where it has experienced, authoritative, and act honestly and fairly

in examining and decided the case because the actions of the Panel of Judges were not careful resulting in loss of time and material for seekers of justice and certainty law.

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