



## Bankruptcy Verdict as a Legal Result of the Rejection of the Peace Plan Proposal by Creditors in the Process of Postponing Debt Repayment Obligations (PKPU)

Dedek Mulyanta Sembiring,<sup>1</sup>\*Ariman Sitompul<sup>2</sup>, Rilawadi Sahputra<sup>3</sup>Syariful Azmi<sup>4</sup>  
<sup>1,2,3,4</sup> Magister Hukum, Universitas Dharmawangsa, Medan, Indonesia

 : [dedeksembiring31@gmail.com](mailto:dedeksembiring31@gmail.com)

Coresponding Author\*

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### ABSTRACT

The process of postponing the debt payment obligation (PKPU) lasts for 270 (two hundred and seventy) days starting from the reading of the PKPU decision. Within 270 days the debtor must prepare a peace plan in the form of a peace proposal that will be offered to the creditors to repay its debts. The peace plan or often referred to as the peace Proposal plan is not clearly regulated and detailed in Law Number 37 of 2007 on bankruptcy and delay and debt repayment obligations. The peace plan is one of the debtor's efforts to make payments on debts that have been registered by creditors, verified and recognized by the debtor which is then authorized by the supervisory judge through the establishment of a fixed Bill list. The peace plan will not necessarily be accepted by the creditors but there will be discussion and voting that will determine whether or not the peace plan offered by the debtor is accepted as a determinant of whether PKPU will end with a bankruptcy decision will be handed down or homologation decision. The method of research conducted in this writing is to use the normative method. This study was conducted by searching and understanding the literature or the bankruptcy law and debt repayment obligation postponement (PKPU) with literature research. This study will examine how the process of postponement of debt repayment obligations (PKPU) until the bankruptcy verdict is handed down to the debtor based on the study of the Commercial Court decision at the Semarang District Court Number : 9/Pdt.Sus-PKPU/2024 / PN.Commerce.Smg). Thus, it can be seen how the process of discussing the peace plan proposal in the process of postponing debt payment obligations (PKPU) will determine whether the bankruptcy decision will be imposed on the debtor or the Peace decision (homologation).

## INTRODUCTION

Indonesia is a state of law, every action taken must be based on constitutional law, namely the 1945 KNRI Constitution. The 1945 Constitution of the Republic of Indonesia is a form of Constitution that has the highest position in a country. The Constitution itself has the highest position in a country. Therefore, every legislation in Indonesia must be in accordance with and should not be contrary to the Constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia. The development of matters in the legal world, be it Criminal Law, Civil Law, Special Civil and administrative law as well as continuously follow the Times. The development of these things is much influenced by the development of society, economy and normative rules that continue to develop in Indonesia. The normative rules that are then promulgated aim to keep pace with developments in the legal world. One of the developments that occurred in the legal world in Indonesia is bankruptcy law.

In the legal division, bankruptcy and deferral of debt repayment obligations fall within the scope of civil law. Therefore, the law on bankruptcy and deferment of debt repayment obligations does not contain any rules for punishment (criminal acts). Bankruptcy and postponement of debt repayment obligations are regulated in Law No. 37 of 2004 concerning bankruptcy and postponement of debt repayment obligations. Literally postponement of debt repayment obligations (PKPU) is a period given by law to the debtor through a commercial judge's decision where during that period the creditor and the debtor are given the opportunity to discuss ways of paying the debt providing a payment plan for all or part of the debt. Applying for PKPU is one way for companies to avoid bankruptcy and bankruptcy status. PKPU can be submitted by debtors and creditors who have good faith, where the application for PKPU submission must be submitted before the pronouncement of the bankruptcy declaration decision. The PKPU process itself is a process in which the debtor offers a peace plan to restructure his debts which may include payment of all or part of his debts to creditors.

Bankruptcy itself is a condition where the debtor is no longer able to make payments on his debts. The state of inability to pay is due to the difficulty of the debtor's financial condition. Even some opinions state that bankruptcy is a scary thing for debtors who have debts, as an *ultimum remedium* or a "last remedy" from a deadlock over debtors who fail to pay their debts. PKPU will bring legal

consequences to all the debtor's assets, where during the course of PKPU, the debtor cannot be forced to pay his debts and all execution actions initiated to obtain debt repayment must be suspended.

Based on the provisions of Article 1 Paragraph 1 of Bankruptcy Law No. 37 of 2004 concerning UUKPKPU States Bankruptcy is a general encumbrance on all assets of insolvent debtors whose management and settlement is carried out by the curator under the supervision of the supervisory judge as stipulated in this law. In relation to the definition of bankruptcy as stipulated in the provisions of Article 1 Paragraph 1 of the Bankruptcy Law Number 37 of 2004 concerning UUKPKPU, Imran Ning explained that bankruptcy is a process in which a debtor who has financial difficulties to pay his debts is declared bankrupt by the court, in this case the Commercial Court, because the debtor cannot pay his debts. Furthermore, Retnowulan explained that bankruptcy is a mass execution stipulated by a judge's decision that is valid immediately, by carrying out a general seizure of all the assets of the person declared bankrupt both at the time of the bankruptcy declaration and those obtained during the bankruptcy for the benefit of all creditors, which is carried out with the supervision of the authorities. The purpose of the bankruptcy declaration is actually to obtain a general seizure of the debtor's property (all property is seized/frozen) for the benefit of all those who owe it (creditors). In principle, bankruptcy is a joint effort to obtain payment for fellow creditors fairly.

In the structure of civil procedural proceedings, bankruptcy is included in the category of forms of application, that is, an application for bankruptcy filed by a debtor or creditor with the aim of obtaining a declaration of bankruptcy by a court that is constitutive for both the debtor and the creditor, that is, a decision declaring a person or business entity in a state of bankruptcy. The purpose of bankruptcy law is to satisfy the interests of both creditors and debtors. It aims to determine whether the interests of creditors can be protected in the implementation of bankruptcy law in Indonesia through the decisions of the judiciary. The purpose of bankruptcy law is to protect the concurrent creditor in order to obtain his rights in connection with the entry into force of the guarantee principle. The bankruptcy law also guarantees that the division of the debtor's property among his creditors is related to the entry into force of the guarantee principle. Bankruptcy law also guarantees that the division of the debtor's property among his creditors.

Sutan Remy Sjahdeini has his own opinion about the purpose of bankruptcy law, namely : 1.

Protecting concurrent creditors to obtain their rights in connection with the application of the principle of guarantee, that all assets of the debtor, whether movable or immovable, whether existing or new will exist in the future, become a guarantee for the debtor's engagement. 2. Ensure that the distribution of the debtor's assets among creditors is in accordance with the *pari passu* principle (proportionally dividing the debtor's assets to concurrent creditors based on consideration of the amount of each creditor's bill). 3. Prevent the debtor from committing acts that could harm the interests of creditors. 4. In United States Bankruptcy Law, bankruptcy law provides protection to debtors who are in good faith to their creditors, by obtaining debt relief. 5. Punish administrators who because of their mistakes have resulted in the company experiencing poor financial circumstances so that the company was declared bankrupt by the court. 6. Provide an opportunity for the debtor and his creditors to negotiate and conclude an agreement on the restructuring of the debtor's debts.

Basically, Law No. 37 of 2004 on bankruptcy and PKPU is based on the principle of balance, the principle of continuity of business, the principle of justice, the principle of integration with the aim to be resolved fairly, quickly, openly and effectively. However, the process of debt settlement through bankruptcy and PKPU is not as easy as imagined, considering that in the PKPU process the debtor must submit a peace plan proposal which is one manifestation of the debtor's good faith in making debt payments to creditors that includes a debt payment plan for debtors. Keep in mind that the peace plan proposal will not necessarily be accepted by creditors because often the peace plan proposal offered by the debtor is often far from meeting the demands of creditors.

## METHOD

The research used is juridical normative, where research is done by tracing legal material through literature studies. This research is descriptive Analytical that is to analyze data systematically, factual and accurate about the problem under study. With the nature of the research conducted is the nature of descriptive research analysis is to provide data as thorough as possible research on the level of public confidence in the National Police. The data collection tools used, namely: primary, secondary and tertiary legal materials which are then analyzed by Qualitative Analysis and then presented descriptively, namely by explaining, outlining, and

describing the problems and solutions related to the formulation of the problem made.

## RESULTS AND DISCUSSION

The collapse of the PKPU decision according to Law Number 37 of 2004 is intended so that debtors who are in a state of insolvency have the opportunity to submit a peace plan. either in the form of an offer to repay the debt in whole or in part. The peace plan can also be in the form of debt restructuring, where the debt will be paid by scheduling new payments. So in principle PKPU is not only intended to safeguard the interests of the debtor, but also for the interests of its creditors as well. As the author has said, that the author analyzes the Commercial Court in Semarang District Court Number: 9 / Pdt.Sus-PKPU/2024 / PN.Commerce.Smg applied by Aminudin Azis against PT. Sejahtera Alam Nusantara is a legal entity in the form of a Limited Liability Company established under Indonesian law and domiciled in Jepara regency, Central Java. Upon the request, the Commercial Court at the Semarang District Court then handed down a temporary PKPU verdict against PT. Sejahtera Alam Nusantara on April 02, 2024. The form of PKPU and bankruptcy cases in the legal system has its own case examination institution which is part of the general judicial institution. The judges who examine PKPU and bankruptcy cases are independent judges who have special expertise in the field of Commerce due to bankruptcy and PKPU cases related to debt and receivables issues.

Law No. 37 of 2004 on bankruptcy and PKPU Article 225 paragraph (3) states : "in the event that the application is submitted by the creditor, the court within 20 (twenty) days from the date of registration of the application letter, must grant the application for a temporary postponement of debt payment obligations and must appoint a supervisory judge from the court judge and appoint 1 (one) or more administrators who together with the debtor take care of the debtor's property."

According To M. Hadi Shubhan in bankruptcy law and PKPU there are external institutions, namely institutions and organs that exist in the bankruptcy process and PKPU. The institution is the Commercial Court while the auxiliary organs related to bankruptcy and PKPU are the supervisory judge and administrator/curator. Based on this, in the case of PKPU PT. Sejahtera Alam Nusantara then appointed a supervisory judge Partogi party Hasiholan Sitprus, S.H., M.Hum, commercial judge at the Semarang District Court and appointed Sdr. Sutanto, S.H., M.H

as the manager in the process of PKPU PT. The Well-Being Of The Archipelago.

Article 225 paragraph (4) of Law No. 37 of 2004 on bankruptcy and PKPU States : "as soon as the decision on the postponement of the obligation to pay the temporary debt is pronounced, the court through the administrator is obliged to call the debtor and the creditor known by registered mail or by courier, to appear ."

In line with the purpose of PKPU, basically debtors are expected to be able to pay their debts by restructuring their debts submitted in the peace plan proposal. Thus in the process of PKPU PT. Sejahtera Alam Nusantara, which is also expected to submit a peace plan proposal for its debts to 4 (four) creditors whose nature of the bill is concurrent and separatist with a total nominal bill of Rp 79,142,166,939,- (seventy-nine billion one hundred forty-two million one hundred sixty-six thousand nine hundred thirty-nine rupiah) until 45 (forty-five) requests that PKPU be given an extension of time to complete its peace plan proposal.

In the PKPU and bankruptcy process there are 3 (three) types of creditors who can apply for PKPU and Bankruptcy and who register themselves as creditors in the PKPU and bankruptcy process, among others :

1. Preference creditors / special creditors, namely creditors who have bills that are given special status and regulated by law.
2. Separatist creditors are creditors whose receivables are borne or guaranteed by liens such as mortgage holders and fiduciaries;
3. Concurrent creditors, namely creditors whose repayment is sufficient from the proceeds from the sale of the debtor's property after deducting the share of Preference creditors and separatist creditors;

As stated above, that in the process of PKPU PT. Sejahtera Alam Nusantara, there are 4 Creditors, among others :

- a) 4 (four) creditors with the nature of concurrent bills with a total bill of Rp 51.262.161.939, - (fifty one billion two hundred sixty two million one hundred sixty one thousand nine hundred thirty nine rupiah).
- b) 2 (two) creditors with separatist nature of the bill with a total bill of Rp 27.880.000.000, - (twenty seven billion eight hundred and eighty million rupiah).

Based on Article 265 of Law No. 37 of 2004 on bankruptcy and PKPU States : "The debtor has the right at the time of applying for a deferment of debt repayment obligations or after that offer a peace to the creditor."

Based on Article 28 paragraph (1) letters (A) and (b) of Law No. 37 of 2004 concerning bankruptcy and PKPU States :

- a) Approval of more than  $\frac{1}{2}$  (one-half) of the number of concurrent creditors whose rights are recognized or temporarily recognized who are present at the meeting of creditors as referred to in Article 268 including creditors as referred to in Article 280, which together represent at least  $\frac{2}{3}$  (two thirds) of the total recognized or temporarily recognized bills of concurrent creditors or their proxies;
- b) The approval of more than  $\frac{1}{2}$  (one-half) of the number of creditors whose accounts are secured by a pledge, fiduciary, mortgage, or collateral rights to other materials present and representing at least  $\frac{2}{3}$  (two-thirds) of the total bills of such creditors or their proxies present at the meeting;

Based on the above provisions, PT. Sejahtera Alam Nusantara (in PKPU) submitted a peace plan proposal dated June 11, 2024 to creditors which was then discussed on June 25, 2024 in a creditor meeting with a peace plan discussion meeting agenda. In principle, the Peace Plan Proposal is often considered as the spearhead of whether the PKPU process will end with peace (homologation) or it will end with the dropping of the bankruptcy declaration. In the peace plan discussion meeting on the peace plan proposal offered by the debtor did not get approval or agreement with the creditors which resulted in the dropping of the bankruptcy verdict against PT. Sejahtera Alam Nusantara on June 27, 2024. The results of the vote (voting) against the proposal of the peace plan of PT. Sejahtera Alam Nusantara (in PKPU) which resulted in the collapse of the declaration of bankruptcy against PT. Sejahtera Alam Nusantara (in PKPU) is as follows :

- a) 4 (four) creditors with concurrent billing properties with a total bill of Rp 51.262.161.939, - (fifty one billion two hundred sixty two million one hundred sixty one thousand nine hundred thirty nine rupiah) with a percentage of 100% expressed disapproval or rejection of the peace proposal dated June 11, 2024;
- b) 2 (two) creditors with separatist nature of the bill with a total bill of Rp 27.880.000.000, - (twenty-seven billion eight hundred eighty million rupiah) with a percentage of 100% expressed disapproval or rejection of the peace proposal dated June 11, 2024.

Based on the provisions of Article 1 Paragraph 1 of Bankruptcy Law No. 37 of 2004 on

UU KPKPU States: "Bankruptcy is a general encumbrance on all assets of the insolvent debtor whose management and settlement is carried out by the curator under the supervision of the supervisory judge as provided for by this law." In relation to the definition of bankruptcy as stipulated in the provisions of Article 1 Paragraph 1 of the Bankruptcy Law Number 37 of 2004 concerning UUKPKPU, Imran Ning explained that bankruptcy is a process in which a debtor who has financial difficulties to pay his debts is declared bankrupt by the court, in this case the Commercial Court, because the debtor cannot pay his debts. Furthermore, Retnowulan explained that bankruptcy is a mass execution stipulated by a judge's decision that is valid immediately, by carrying out a general seizure of all the assets of the person declared bankrupt both at the time of the bankruptcy declaration and those obtained during the bankruptcy for the benefit of all creditors, which is carried out with the supervision of the authorities. The purpose of the bankruptcy declaration is actually to obtain a general seizure of the debtor's property (all property is seized/frozen) for the benefit of all those who owe it (creditors). In principle, bankruptcy is a joint effort to obtain payment for fellow creditors fairly.

If in the PKPU process, the board is the institution that plays a role, then in the bankruptcy process, the curator is also known. The curator is a neutral party who is required to be professional, independent and have high moral integrity. This is very necessary by the curator in order to perform the task of management and cleaning responsibly. The curator is given a relatively large authority by the bankruptcy law in carrying out the task of managing and clearing the bankruptcy boedel as soon as the debtor is declared bankrupt by The Commercial Court. The main task of a curator in the bankruptcy process is to clean up bankruptcy assets in accordance with law Number 37 of 2004 on UUKPKPU. In another sense, the main task of the curator is to sell assets, which will be distributed to creditors. The purpose of management here is to record, find, maintain value, secure, and tidy up the property by selling it through auction. The curator ensures that the confiscated goods can be identified, taken care of, maintained, even developed in value to be sold and distributed the proceeds to creditors. Thus, along with the fall of the bankruptcy declaration verdict against PT. Sejahtera Alam Nusantara (in PKPU) on June 27, 2024, the task of the board in the process of managing PKPU PT ends. Sejahtera Alam Nusantara (in PKPU) which then began the duties of the curator in the bankruptcy

settlement process of PT. Peace Be Upon You, Alam Nusantara (in bankruptcy).

## CONCLUSION

Basically, the purpose of the PKPU process is for the debtor to be in a state of insolvency who then has the time and opportunity to restructure his debts. However, in the process of preparing debt restructuring prepared by the debtor which is then outlined in the Peace Plan Proposal, of course, must also pay attention to the needs of its creditors. This is certainly very important, considering that the rejection or acceptance of the peace plan proposal submitted by the debtor is muiltak in the hands of the creditors who, if the peace plan proposal only concerned the interests of the debtor than to see the creditors who are trying to get their rights, of course this will be fatal for the debtor which with the rejection of the peace plan proposal submitted by the debtor will certainly cause legal consequences, namely the fall of the bankruptcy statement decision against the debtor. Thus, a debtor in good faith must certainly remain careful in drawing up a peace plan proposal and pay attention to what are the needs and demands of creditors who are recognized or temporarily recognized bills.

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