

ABSTRAK

Hukum Kepailitan diperlukan untuk mengeksekusi dan membagi harta debitur atas pelunasan utangnya kepada kreditor-kreditor secara adil dan seimbang. Undang-undang Kepailitan mendefinisikan kepailitan adalah sita umum atas semua kekayaan debitur pailit yang pengurusan dan pemberesannya dilakukan oleh Kurator dibawah pengawasan Hakim Pengawas. Kurator bertanggungjawab dalam penyelesaian kepailitan, namun dalam pelaksanaan tugas pengurusan dan pemberesan harta pailit muncul kendala-kendala yang dihadapi.

Penelitian ini bertujuan untuk mengetahui pelaksanaan tugas kurator dalam pengurusan dan pemberesan harta pailit dan mengetahui kendala-kendala yang dihadapi kurator dalam pengurusan dan pemberesan harta pailit serta solusinya.

Metode pendekatan yang digunakan dalam penelitian ini adalah metode pendekatan yuridis normatif, yaitu dengan meneliti sumber-sumber bacaan yang relevan, meliputi penelitian terhadap asas-asas hukum, sumber-sumber hukum, serta dapat menganalisa permasalahan yang dibahas.

Hasil penelitian menyimpulkan bahwa: 1. Pelaksanaan tugas kurator dalam pengurusan dan pemberesan harta pailit di Pengadilan Niaga Semarang: dalam pemberesan yaitu: a. kurator berwenang untuk bertindak sendiri sebatas tugasnya, b. kurator bertugas mengumumkan putusan pernyataan pailit, c. melakukan koordinasi dengan para kreditor, d. melakukan pencatatan harta pailit, e. mengamankan kekayaan debitur pailit, f. melakukan tindakan hukum ke pengadilan, g. meneruskan atau menghentikan hubungan hukum debitur pailit, h. melakukan pencocokan utang, i. melakukan upaya perdamaian dan j. melanjutkan usaha debitur serta dalam pemberesan yaitu: a. mengusulkan dan melaksanakan penjualan harta pailit, b. membuat daftar pembagian, c. membuat daftar perhitungan dan pertanggungjawaban kepada hakim pengawas. 2. Kendala-kendala yang dihadapi kurator dalam pengurusan dan pemberesan harta pailit di Pengadilan Niaga Semarang dan solusinya: a. ketidakjelasan kapan kurator mulai berwenang, solusinya UU seharusnya memberikan penetapan agar kurator mendapat Salinan putusan pengadilan pada tanggal yang sama dengan tanggal putusan dibacakan, b. pengaturan jangka waktu pencatatan harta pailit adalah pasal yang sulit untuk dilaksanakan, seharusnya kurator diberi kesempatan untuk mengajukan jangka waktu yang dibutuhkan, c. putusan pailit tidak dapat dieksekusi terhadap harta pailit di luar negeri, seharusnya UU mengatur agar debitor memberikan surat kuasa pada kurator untuk mengambil alih asetnya di luar negeri, d. tidak diatur mengenai tanggungjawab kurator terdahulu dalam hal pergantian kurator, seharusnya UU mengaturnya, e. adanya kekosongan hukum terhadap kurator yang sudah tidak terdaftar dalam organisasi profesi ketika tengah menangani perkara kepailitan, seharusnya UU mengatur mengenai masatransisi keanggotaan kurator, dan f. tidak ada pembatasan mengenai tanggungjawab kurator secara pribadi dan profesi, seharusnya UU memberikan pembatasan.

Kata kunci : Pelaksanaan Tugas Kurator, Pengurusan dan Pemberesan Harta Pailit

ABSTRACT

Bankruptcy law is required to execute and divide the debtor's assets for repayment of their debts to creditors in a fair and balanced manner. The Bankruptcy Law defines bankruptcy as the general seizure of all the assets of a bankrupt debtor whose management and settlement are carried out by the Curator under the supervision of the Supervisory Judge. The curator is responsible for the settlement of bankruptcy, but in carrying out the tasks of management and bankruptcy of assets, obstacles arise.

This research aims to determine the implementation of the curator's duties in the management and bankruptcy of assets in the Semarang Commercial Court and to find out the obstacles faced by the curator in the management and bankruptcy of assets in the Semarang Commercial Court and the solution.

The approach method used in this study is a normative juridical approach method, namely by examining relevant reading sources, including research on legal principles, legal sources, and can analyze the problems discussed.

The results of this research concluded that: 1. Implementation of the curator's duties in the clearance and settlement of bankruptcy assets in the Semarang Commercial Court: in the form of delivery, namely: a. the curator is authorized to act on his / her own duty, b. the curator is tasked with announcing the decision on bankruptcy statements, c. coordinate with creditors, d. register bankrupt assets, e. secure the wealth of bankrupt debtors, f. take legal action to court, g. forward or terminate the legal relationship of the bankrupt debtor, h. do debt matching, i. make peace efforts and j. continue the debtor's business and in the settlement, namely: a. propose and carry out the sale of bankrupt assets, b. make a distribution list, c. make a list of calculations and accountability to the supervisory judge. 2. Constraints faced by the curator in the management and bankruptcy of assets in the Semarang Commercial Court and the solution: a. unclear when the curator will begin to be authorized, the solution to the law should be to provide a stipulation so that the curator gets a copy of the court decision on the same date as the date the verdict was read, b. the arrangement of the period of bankruptcy asset registration is an article that is difficult to implement, the curator should be given the opportunity to submit the required period of time, c. bankruptcy decisions cannot be executed against bankrupt assets abroad, the Act should regulate so that the debtor gives a power of attorney to the curator to take over his assets abroad, d. it is not regulated regarding the responsibilities of the previous curator in terms of the replacement of the curator, the Act should regulate it, e. there is a legal vacuum towards curators who have not been registered in professional organizations when they are handling bankruptcy cases, the law should regulate the relationship between curator membership, and f. there are no restrictions regarding the responsibility of the curator personally and professionally, the law should provide restrictions.

Keywords: Curator Duties, Clearance and Settlement of Bankruptcy Assets