

# RENOVI PROCEDURE LAWSUIT AS A CREDITOR'S LEGAL ACTION TO OBTAIN LEGAL CERTAINTY OVER THE VALUE OF ITS BILLS BASED ON INDONESIAN BANKRUPTCY LAW

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## ABSTRACT

*The renvoi procedure lawsuit is a legal action taken by creditors to obtain legal certainty over the value of their bills. In practice, there are problems regarding the settlement of creditors' claims in the bankruptcy process which involves various complex legal aspects. This research aims to understand the renvoi lawsuit procedure as an effort of creditors' legal action to obtain legal certainty over the value of their bills based on bankruptcy law in Indonesia. This research uses normative research methods. The data collection technique is done by literature study. The data is then analyzed qualitatively through three procedures namely data reduction, data presentation and conclusion drawing. The results of the study show that in an effort to obtain legal certainty and the value of a recognized invoice, a meeting of matching receivables by creditors who do not receive receivables acknowledged by the curator is held. During the meeting, the curator read out the list of invoices along with the legal basis notes and facts from the billing documents as well as documents from companies or individuals providing credit. After that, each creditor and debtor signed an agreement on the bill that was recognized by the creditor, so that the value of the bill obtained legal certainty.*

**Keywords:** Renvoi Lawsuit, Legal Action, Creditors, Legal Certainty of Bill Value, Bankruptcy Law

## INTRODUCTION

Workers or laborers may face a situation where they do not receive the rights they are entitled to in accordance with applicable laws and regulations. This can occur in the context of bankruptcy proceedings, where the distribution of salaries to workers or laborers may be overlooked or not prioritized by the curator responsible for the management of the bankruptcy estate. When there is a situation where the number of creditors is large and the bankruptcy estate is insufficient to meet all obligations, workers or laborers are often the most vulnerable. Workers do not get the wage payments they are due and this can be financially detrimental to them.

The curator and supervision judge play a crucial and determining role in the bankruptcy procedure. They are responsible for the management of the bankruptcy estate, the determination of the order of distribution through the lender's meeting, and the disposal of the bankruptcy estate during insolvency. These tasks require care and precision from the curator and supervisory judge. Because of this important and decisive role, the objectivity and integrity of curators and supervisory judges must be maintained. However, there is potential for acts of arbitrariness committed by the curator for personal gain. This can occur when the curator, as one of the parties with a crucial role in a foreclosure case, does not give priority to the payment of wages to workers or laborers during the distribution of bankruptcy assets. This potential for abuse can occur due to the large number of creditors and the insufficient amount of bankruptcy estate assets to pay all debts. If there are problems related to arbitrary actions taken by the curator, taking legal steps is possible if workers or laborers do not receive their rights according to the relevant rules and regulations. In such situations, legal remedies can be taken to ensure that workers or laborers obtain the rights they should receive in the bankruptcy process (Lendrawati & Santoso, 2015).

The aggrieved party in this case can file an objection to the Supervisory Judge, namely a legal remedy in the form of a renvoi lawsuit. The renvoi procedure is a creditor's response to the curator's list of temporary bills of creditors that have been approved or disapproved. Creditors who refuse to accept the receivables acknowledged by the curator present a renvoi procedure during the receivables



matching meeting. The curator reads the list of bills (in front of the Supervisory Judge, the debtor, and other creditors) along with notes in the form of legal justifications, facts gleaned from documentary evidence of bills, and corporate or individual documents supplied by creditors in the form of justifications for accepting or rejecting pre-existing debt records that have been noticed by the curator and the bankrupt debtor against the bills (Arizona, 2019). The renvoi lawsuit is regulated in Article 127 paragraph (1) and (3) of the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Law which states:

*(1) In the event that there is a dispute while the Supervisory Judge cannot reconcile the two parties, even though the dispute has been submitted to the court, the Supervisory Judge shall order the two parties to settle the dispute in court.*

*(3) The case as referred to in paragraph (1) shall be examined in a simple manner.*

The article explains that if any party feels aggrieved, they have the right to challenge the calculation of the bill. The dispute will be settled in court and the case will be examined in a simple manner. These provisions are set out in the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Law with the aim of providing protection to all parties involved in the bankruptcy and PKPU process, including debtors, creditors, and other interested parties against actions that cause harm by the curator. This aims to ensure that the interests of all parties are safeguarded and there is legal protection in the bankruptcy and PKPU process.

The renvoi lawsuit as a creditor's legal action is intended to obtain legal certainty of the value of the bill. In previous research conducted by (Arizona, 2019) the renvoi lawsuit was based on the internal audit of the creditor company with a research focus on the legal force of filing a lawsuit. Another study was conducted by (Parika, 2018) which investigated how to postpone debt payments through the renvoi process. The absence of study examining renvoi lawsuits aimed at obtaining legal certainty of the value of bills is the novelty of this research. This study aims to understand the renvoi lawsuit procedure as an effort of creditors' legal action to obtain legal certainty of the value of their bills based on bankruptcy law in Indonesia.

## METHOD

Normative research methodologies are being used in this study. Normative legal research is based on the nature and application of the legal discipline, which is described as a set of reality-based teachings that typically incorporates both analytical and prescriptive discipline. If the law is considered to cover simply its normative components, then the legal disciplines are typically included in prescriptive disciplines (Sonata, 2014). By studying the literature, data gathering strategies are carried out. Reading books, papers, journals, articles, reports, periodicals, and other written materials linked to research is a strategy known as literature study that is used to gather data and information (Sari & Asmendri, 2020). The data was gathered from Google Scholar and covered the years 2013 through 2023. Following that, the data were qualitatively examined using three techniques: data reduction, data presentation, and conclusion drawing.

## DISCUSSION

Article 1 paragraph 1 of Law No. 37 of 2004 about Bankruptcy and PKPU states that bankruptcy is a general seizure of all assets owned by the bankrupt debtor, whose management is carried out by a curator under the supervision of a supervisory judge as specified in this Law. According to Handayani (2021), the bankruptcy tenets are:

1. The principle of balance, the Law governs a number of measures that are also examples of the principle of balance. On the one hand, there are laws that stop dishonest debtors from abusing institutions like bankruptcy and its institution. On the other hand, it can stop a bad creditor from abusing bankruptcy institutions and other organizations.
2. The principle of business continuity, this principle has a clause that permits the potential debtor company to carry on.
3. The principle of justice, the bankruptcy principle of justice implies that the bankruptcy provisions can satisfy a sense of justice for the parties who are also interested in this principle



to stop the arbitrariness of the collecting parties who seek payment of a bill from each against the debtor and do not care about other creditors.

4. The principle of integration, this principle in the Bankruptcy Law states that the formal legal system, material law, and national civil procedural law are all a component of the civil law system.

According to Kapoyos (2017) the requirements for bankruptcy that can be submitted to the court must at least fulfill several elements as described in Article 2 paragraph (1) of Law Number 37 of 2004 which provides the following provisions:

*"A debtor who has two or more creditors and does not pay in full at least one debt that is due and collectible, is declared bankrupt by a court decision, either at his own request or at the request of one or more creditors".*

Legal certainty is a judicial safeguard against arbitrariness, which guarantees that a person will be able to get what is expected of them in specific situations. Because it will result in a more orderly society, society demands legal clarity. Because it seeks to maintain public order, the law is charged with establishing legal clarity. The community, on the other hand, anticipates gains from the application or enforcement of the law. Law is for people, thus its application or enforcement must serve the community's interests or needs, including those of a creditor seeking legal certainty over the amount of his debt (Moho, 2019).

All of the bankrupt debtor's assets are publicly seized as part of a bankruptcy proceeding, and the curator is in charge of managing them while the supervisory judge keeps an eye on him or her. The distribution of bankruptcy assets will take into account the amount of claims made by creditors. The Civil Code's Article 1131's requirement that the debtor's property is jointly guaranteed for all creditors, who are allotted according to the "Pari Pasu Pro rata Parte" principle of balance, is realized by the bankruptcy rule (Sinaga & Sulisduratin, 2016).

Bankruptcy cases are resolved under the curator's authority in 3 (three) stages: the inventory stage of bankruptcy assets, the verification stage and the bankruptcy management stage. In this case, a control mechanism is needed to balance the power of the curator. Therefore, a norm is needed that can guarantee legal certainty, which is a component of justice, to regulate the renvoi procedure according to its characteristics (Suci, 2021).

The provisions of Article 127 of Law No. 37 of 2004 regarding Bankruptcy and PKPU are procedures and procedures for conducting renvoi against differences or differences in the amount of debt of a bankrupt debtor that has been announced by the curator and disputed by creditors, if the supervisory judge is unable to resolve the dispute over the difference in the amount of debt, the parties, both debtors and creditors, can submit a lawsuit application for changes in the amount of debt (renvoi) to the Commercial Court (Arizona, 2019).

Renvoi Procedure is a form of resistance in the form of a rebuttal from creditors in the receivables matching meeting provided by Law Number 37 of 2004 regarding Bankruptcy and PKPU in Article 127 paragraph (1) to the curator to safeguard the interests of creditors with regard to the invoices they delivered to the curator in connection with the bankruptcy of the debtor (Simaratungga, 2019). The Renvoi method facilitates creditors and offers legal protection to those whose bills are rejected by the curator by submitting written objections containing supporting reasons for the rejection of the creditor's bill by the curator, accompanied by evidence, to the Panel of Deciding Judges through the Supervisory Judge. Within a short period of time following the filing of the objection request, the objector must appear at the hearing and be easily examined (Raditya, 2014). Prisdani (2020) explains renvoi remission and transmission as follows.

1. Redesignation (remission, rückverweisung, terugverwijzing)

The process of renvoi by foreign international civil law rules back towards the lex fori. In this process, the rules of forum international civil law are initially appointed in favor of the norms of foreign international civil law, since it has been established that the second appointment's foreign international civil law norms will refer to the lex fori.

2. Further designation (transmission, weiterverweisung verderverwijzing)



The process of renvoi by a foreign rule of international civil law towards another foreign legal system, where the first designation takes place from the forum rule of international civil law towards a foreign rule of international civil law, which has previously been known to designate towards a third legal system.

The renvoi procedure is used to obtain legal certainty concerning the value of creditor claims. In bankruptcy law, litigation often involves regulating the interests of creditors who have claims against debtors declared bankrupt. In this case, renvoi can be interpreted as a legal concept that is guided by the decision of a court to return the case to the court.

This procedure renvoi lawsuit is filed by creditors to obtain legal certainty regarding the value of their bills in bankruptcy cases. By filing a procedural renvoi lawsuit, creditors hope that the court will refer the bankruptcy case. This allows the creditor to file its claim in a court that is more familiar with the applicable laws and procedures, thereby obtaining greater legal certainty regarding the resolution of its claim. However, it is also important to note that a procedural renvoi claim can only be filed in certain situations that meet the requirements of Indonesian bankruptcy law. Creditors who plan to use a procedural renvoi claim should consult with a lawyer experienced in insolvency law for advice appropriate to the situation.

### CONCLUSION

Creditors who reject the receivables accepted by the curator hold a receivables matching meeting in an effort to establish legal certainty and the value of the accepted receivables. The meeting is a forum where the receivers present a list of bills along with the legal basis and facts related to the bill documents and documents of the company or individual providing credit. In this meeting, each creditor and debtor is present and given the opportunity to evaluate and consider the curator's assessment of the bills. If the creditor and debtor agree with the receivership valuation, they will sign an agreement on the receivables recognized by the creditor. This action provides legal certainty to the value of the recognized receivables and ends the dispute regarding the receivables claim.

### BLIBLIOGRAPHY

- [1] Arizona, W. (2019). *Analisis Yuridis Kekuatan Hukum Pengajuan Permohonan Renvoi Prosedur Oleh Kreditor Yang Didasarkan Kepada Audit Internal Perusahaan Kreditor: Studi Putusan Mahkamah Agung No. 617. K/Pdt. Sus. Pailit/2018. USU LAW JOURNAL*, 7(6), 57-64.
- [2] Handayani, A. (2021). *Perlindungan Hukum Bagi Kreditor dan Penyelesaian Utang Debitor Terhadap Kreditor Ditinjau Dari Undang-undang Kepailitan dan PKPU. Varia Hukum*. 3(2), 46-74.
- [3] Kapoyos, N. (2017). *Konsep Pembuktian Sederhana Dalam Perkara Kepailitan Kajian Putusan Nomor 125 PK/PDT.SUS-PAILIT/2015. Jurnal Yudisial*. 10(3), 331-346.
- [4] Lendrawati, L., & Santoso, R. (2015). *Keputusan Mahkamah Konstitusi No. 67/Puu-Xi/2013 Tentang Uu No. 13 Tahun 2003 Tentang Ketenagakerjaan. Journal of Judicial Review*, 17(1).
- [5] Moh, H. (2019). *Penegakan Hukum di Indonesia Menurut Aspek Kepastian Hukum, Keadilan Dan Kemanfaatan. Jurnal Warta Edisi* : 59. 1-13.
- [6] Parika, L. (2018). *Renvoi Dalam Kepailitan Menurut Undang-undang Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang (Doctoral dissertation, Universitas Mataram)*.
- [7] Prisdani, U. (2020). <https://www.hukumonline.com/klinik/a/mengenal-irenvoy-i-dalam-hukum-perdata-internasional>. Diakses pada 12 Juli 2023.
- [8] Raditya, R. (2014). *Renvoi Prosedur Sebagai Upaya Hukum Terhadap Tagihan Kreditor Yang Ditolak Oleh Kurator Dalam Suatu Perkara Kepailitan (Studi Kasus Putusan No. 32/PAILITKEBERATAN 2010/PN.NIAGA.JKT.PST). Tesis S2 Hukum UGM*.
- [9] Sari, M., & Asmendri, A. (2020). *Penelitian kepustakaan (library research) dalam penelitian pendidikan IPA. Natural Science*, 6(1), 41-53. <http://ejournal.uinib.ac.id/jurnal/index.php/naturalscience/article/view/1555>
- [10] Sinaga, N., & Sulisduratin, N. (2016). *Hukum Kepailitan Dan Permasalahannya di Indonesia. Jurnal Ilmiah Hukum Dirgantara-Fakultas Hukum Universitas Dirgantara Marsekal Suryadarma*. 7(1), 158-171.
- [11] Smaratungga, D., dkk. (2019). *Renvoi Prosedur Sebagai Suatu Bentuk Perlawanan Kreditor Terhadap Penyelesaian Utang Dalam Kepailitan (Studi Kasus Putusan No. 12/Pdt.Sus-renvoi Prosedur/2017/Pn Niaga. Smg.)*. Tesis Undip.



- [12] Suci, I. (2018). *Karakteristik Hukum Acara Renvoi Prosedur dalam Perkara Kepailitan*. Disertasi Universitas Jember.
- [13] Sonata, D. L. (2014). *Metode penelitian hukum normatif dan empiris: karakteristik khas dari metode meneliti hukum*. *Fiat Justisia Jurnal Ilmu Hukum*, 8(1), 15-35.  
<https://doi.org/10.25041/fiatjustisia.v8no1.283>