

ABSTRAK

Proses kepailitan debitor pailit tidak jarang mendapati sengketa yang didasari oleh curangnya perbuatan debitor. Kepailitan menjadi proses hukum yang paling dihindari oleh banyak debitor karena dapat mengakibatkan sita umum terhadap seluruh harta debitor. Tindakan penyelamatan aset pun akhirnya kerap dilakukan oleh debitor pailit guna melindungi kepentingan dirinya sendiri. Kurator sebagai pihak yang bertanggung jawab dalam kepengurusan dan pemberesan *boedel* pailit dapat mengajukan upaya hukum pembatalan perbuatan hukum debitor pailit yang terindikasi akan mengakibatkan kerugian bagi para kreditor. Upaya hukum ini dalam UU K-PKPU termasuk ke dalam gugatan lain-lain berupa gugatan *actio pauliana*. Penelitian ini bertujuan untuk mengetahui dan menganalisis pengaturan yuridis normatif mengenai gugatan *actio pauliana* dalam UU K-PKPU dan Putusan MA Nomor 2 K/Pdt.Sus-Pailit/2019 terhadap gugatan *actio pauliana* dalam memberikan perlindungan terhadap kreditor

Metode pendekatan penelitian yang digunakan adalah pendekatan penelitian yuridis normatif yang mengkaji hukum sebagai norma, aturan, asas hukum, prinsip hukum, dan doktrin hukum berupa pendapat majelis hakim yang dituangkan ke dalam putusan. Penelitian ini menggunakan spesifikasi penelitian secara deskriptif analitis. Metode pengumpulan data yang digunakan adalah studi kepustakaan dengan menggunakan teknik analisis data kualitatif yang mengkaji Putusan MA Nomor 2 K/Pdt.Sus-Pailit/2019 berdasarkan KUH Perdata dan UU K-PKPU. Hasil penelitian ini menunjukkan bahwa pengaturan gugatan *actio pauliana* diatur dalam Pasal 1341 KUH Perdata dan Pasal 41-50 UU K-PKPU. Hasil penelitian ini menunjukkan bahwa pertimbangan hakim dalam Putusan Nomor 2 K/Pdt.Sus-Pailit/2019 telah sesuai dan memenuhi unsur-unsur *actio pauliana* dalam Pasal 41-42 UU K-PKPU. Oleh karena itu perbuatan hukum debitor pailit dinyatakan sebagai *actio pauliana* oleh Majelis Hakim MA. Akibat hukum dari Putusan MA Nomor 2 K/Pdt.Sus-Pailit/2019 ialah objek sengketa termasuk ke dalam *boedel* pailit dan pengembalian status hukum pada keadaan semula.

Kata Kunci: Kepailitan, *Actio Pauliana*, *Boedel Pailit*.

ABSTRACT

It is not uncommon for the bankruptcy process of a bankrupt debtor to encounter disputes based on fraudulent actions of the debtor. Bankruptcy is the legal process most avoided by many debtors because it can result in general confiscation of all debtor assets. Eventually, asset rescue actions are often taken by bankrupt debtors to protect their own interests. The curator, as the party responsible for the management and administration of the bankruptcy estate, can file a legal action to cancel the legal actions of the bankruptcy debtor that are indicated to cause harm to creditors. This legal effort in the K-PKPU Law is included in other lawsuits in the form of *actio pauliana* lawsuits. This study aims to determine and analyze the normative juridical arrangements regarding *actio pauliana* lawsuits in the K-PKPU Law and Supreme Court Decision Number 2 K/Pdt.Sus-Bankruptcy/2019 against *actio pauliana* lawsuits in providing protection to creditors.

The research approach method used is a normative juridical research approach that examines the law as norms, rules, legal principles, legal principles, and legal doctrine in the form of the opinion of the panel of judges as outlined in the decision. This research uses descriptive analytical research specifications. The data collection method used is a literature study using qualitative data analysis techniques that examine Supreme Court Decision Number 2 K/Pdt.Sus-Bankruptcy/2019 based on the Civil Code and the K-PKPU Law. The results of this study indicate that the regulation of *actio pauliana* lawsuits is regulated in Article 1341 of the Civil Code and Articles 41-50 of the K-PKPU Law. The results of this study indicate that the judge's consideration in Decision Number 2 K/Pdt.Sus-Bankruptcy/2019 is in accordance with and fulfills the elements of *actio pauliana* in Articles 41-42 of the K-PKPU Law. Therefore, the legal actions of the bankrupt debtor were declared as *actio pauliana* by the Panel of Judges of the Supreme Court. The legal consequences of Supreme Court Decision Number 2 K/Pdt.Sus-Bankruptcy/2019 are the object of dispute included in the bankruptcy estate and the return of legal status to its original state.

Keywords: Bankruptcy, Actio Pauliana, Bankruptcy Estate.