

## ABSTRACT

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### **“STATUS AND STANDING OF THIRD PARTY COLLATERAL MORTGAGED IN BANKRUPTCY ASSETS OF LIMITED LIABILITY COMPANY DEBTOR”**

(xi+116 pages)

A collateral on behalf of third parties are allowed by law to act as a security over the debtor's debt and has been a common practice among businesses, especially by limited liability companies (“LLC”). According to the Indonesian Bankruptcy Law, in an occurrence of an LLC bankruptcy, the assets which are included as the bankruptcy assets of the LLC includes all the assets of the LLC and all the assets obtained during bankruptcy. On the other hand, according to the LLC Law, an emphasis is made in regard to the separation between the LLC's assets and the shareholders' assets. Both laws which seems contradicting often give rise to problems in practice, thus causing a debate on whether third party collateral can be included within the *boedel pailit*, as which can be found within the case between the Curator of PT Elang Perkasa Lestari Jaya and PT Bank Mandiri, Tbk. The purpose of this research is to analyze and determine which regulation applies, and to analyze the role of a notary in this case by using a normative approach and descriptive analysis as well as qualitative data analysis method with case study of the Supreme Court verdict. The result of this research shows that the Supreme Court Verdict has further clarify the legal standing of bankruptcy law as the *lex specialis*, and due to that reason there exists limitations towards creditors holding the security rights within bankruptcy. In relation to the role of a notary as the party authorized to make an authentic deed for the transfer of collateral as referred to in this study, a notary needs to understand the position of bankruptcy law as *lex specialis* and thus be able to understand the timeline contained in the bankruptcy process, in connection with the execution of the collateral concerned.

References: 50 (1998-2021)

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