

## ABSTRACT

### **JURISDICTION ANALYSIS OF THE MECHANISM OF PROVENING THE APPLICATION FOR BANKRUPTCY PROVIDED BY THE GUARANTEE AGAINST HIMSELF IN BANKRUPTCY (CASE STUDY OF DECISION NUMBER 05/Pdt.Sus-Pailit/2020/PN.JKT.PST.)**

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The guarantor was born from a debt agreement between the debtor and the creditor. In his position as a guarantor, he often feels disadvantaged because the debtor defaults to the creditor. In this case the guarantor is often filed for bankruptcy against him. This study aims to analyze and explore the mechanism for proving the bankruptcy application submitted by the guarantor against himself. This study uses empirical normative legal research methods and uses secondary data consisting of primary, secondary and tertiary legal materials. This research is classified as a qualitative research, with the type of methodology used is a legal systematic approach and a case law approach. The data used in this analysis is secondary data obtained through library research techniques and is supported by primary data obtained by interview techniques. Based on the Civil Code, the results of the analysis show that when the guarantor relinquishes his privileges and the main debtor defaults, the position of the guarantor can be said to be a debtor. This is because the guarantor has an obligation to pay off the debtor's debt to the creditor. In the mechanism of proving the bankruptcy application against the guarantor, it must be proven that the position of the guarantor has changed to that of a debtor and furthermore it is proven about the conditions for bankruptcy as regulated in Article 2 paragraph (1) and Article 8 paragraph (4) of Law Number 37 of 2004 concerning Bankruptcy and PKPU. In this study the author also analyzes the legal considerations of the Panel of Judges in the decision number 05/Pdt.Sus-Pailit/2020/PN.JKT.PST. In his consideration, there are several legal considerations that are not in accordance with the applicable regulations, but regarding the decision, it is correct.

Keywords: guarantor, proof, bankruptcy

References: 42 (1945-2020)