

## ABSTRAK

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**TANGGUNG JAWAB PENANGGUNG / PENJAMIN PRIBADI (*PERSONAL GUARANTOR*) YANG BERADA DALAM PKPU SECARA BERSAMAAN DENGAN PKPU DEBITOR UTAMA  
STUDI PERKARA NOMOR 22/PDT.SUS-PKPU/2019/PN SMG DAN PERKARA NOMOR 25/PDT.SUS-PKPU/2019/PN SMG**

(xi + 87 halaman ; 2 tabel)

Penelitian ini memiliki dua pokok kajian, yang berfokus pada (1) akibat hukum yang timbul terhadap perjanjian penanggungan (*borgtocht*) apabila debitor utama dan penanggung/penjamin pribadi (*personal guarantor*) berstatus PKPU secara bersamaan di dalam register perkara PKPU yang berbeda, serta (2) distribusi tanggung jawab dari penanggung/penjamin pribadi (*personal guarantor*) yang mengajukan PKPU atas dirinya sendiri secara *voluntair* dalam kaitannya dengan proses PKPU dari debitor utama yang sedang berjalan sesuai dengan UU Kepailitan dan PKPU. Penelitian ini merupakan penelitian yuridis normatif yang didukung wawancara dengan narasumber, dengan analisis kualitatif. Adapun jenis pendekatan yang digunakan adalah pendekatan undang-undang (*statute approach*), pendekatan konseptual (*conceptual approach*) dan pendekatan kasus (*case approach*). Berdasarkan hasil penelitian ini disimpulkan bahwa (1) perjanjian penanggungan (*borgtocht*) merupakan perjanjian *accessoir* terhadap perjanjian pokok debitor utama, sehingga walaupun penanggung pribadi/penjamin pribadi (*personal guarantor*) diputus PKPU secara bersamaan dengan debitor utama, maka yang harus dikejar terlebih dahulu ialah debitor utama sesuai dengan ketentuan Pasal 1831 KUHPerdara, serta (2) distribusi tanggung jawab dari penjamin pribadi yang mengajukan PKPU atas dirinya sendiri secara *voluntair* dalam kaitannya dengan proses PKPU dari debitor utama yang sedang berjalan memiliki dua implikasi, yakni: ia akan tetap berstatus sebagai debitor tersendiri terhadap kreditor langsung (*direct*) di luar perjanjian penanggungan, namun juga tetap berstatus sebagai penanggung/penjamin pribadi (*personal guarantor*) yang belum dapat dikejar selama debitor utama belum sampai pada proses sita umum/belum dinyatakan pailit.

Referensi : 42 (1979-2021)

Kata kunci: debitor utama, penanggung/penjamin pribadi (*personal guarantor*), *borgtocht*, penundaan kewajiban pembayaran utang (PKPU).

## ABSTRACT

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**LEGAL RESPONSIBILITY OF PERSONAL GUARANTOR IN A  
SUSPENSION OF DEBT PAYMENT OBLIGATION (PKPU) STATE  
UNDER THE SAME OCCURENCE WITH THE MAIN DEBTOR  
CASE STUDY NUMBER 22/PDT.SUS-PKPU/2019/PN SMG AND  
NUMBER 25/PDT.SUS-PKPU/2019/PN SMG**

(xi + 87 pages; 2 table)

This research has two main points of study, focusing on (1) legal consequences towards the guarantee agreement (*borgtocht*) whereas a personal guarantor and the main debtor is in a suspension of debt payment obligation (PKPU state) under the same occurrence, and (2) distribution on legal responsibility of personal guarantor who submitted a voluntary petition, in accordance with the suspension of debt payment obligation (PKPU) process of the main debtor. This research applies a normative juridical study, supported by the collected data from informants, using a qualitative analysis. This research also departs from three related approaches, namely: statute approach, conceptual approach and case approach. The results of this research conclude that (1) guarantee agreement (*borgtocht*) is an accessoir or secondary agreement sourced from the main agreement of the main debtor with the creditors, hence, whenever a personal guarantor is stated to be in a suspension of debt payment obligation (PKPU state) with the main debtor, it will not be a tricky issue, since the creditors shall pursue their rights to be paid to the main debtor, before they pursue the personal guarantor, pursuant to Article 1831 Indonesian Civil Code and (2) the distribution on legal responsibility of personal guarantor who submitted a voluntary petition, in accordance with the suspension of debt payment obligation (PKPU) process of the main debtor has two implications, whereas: (1) he will act as a separated debtor from his guarantee-related obligations as long as he meant to finish his debt with his own direct creditors outside of the guarantee agreement, but also as the personal guarantor that shall not be pursued by the creditors inside the guarantee agreement as long as the main debtor remains in the suspension of debt payment obligation (PKPU state) and has not determined as “bankrupt”.

Reference : 42 (1979-2021)

Keywords: main debtor, personal guarantor, *borgtocht*, the suspension of debt payment obligation (PKPU state).