

ABSTRACT

Julianto

(00000006996)

FILING A BANKRUPTCY SUIT IN CASE OF THE SAME ENTITY (Case Study on Supreme Court Verdict Number 750 K/Pdt.Sus-Pailit/2016)

(xiii + 119 + 6 tables)

Bankruptcy is anything related to the event or state of dismissal of debt payments due to the debtor is no longer able to pay its debts so that for the sake of repayment of debts of creditors, the debtor declared bankrupt by the court so all of his property can be seized and auctioned. However, to declare a person into a state of bankruptcy is not as easy to think as in Article 2 paragraph (1) Juncto Article 8 paragraph (4) of Code No. 37 of 2004 on Bankruptcy Proceedings and Suspension of Payment has set the conditions that must be met are : the debtor must have two or more creditors, failing to pay at least one debt which has matured and became payable and about the existence of two or more creditors and the existence of debt has matured and became payable must be proven simply. in practice, to proven simply is not something easy because in Code No. 37 of 2004 on Bankruptcy and Suspension of Payment does not explain further about what can be categorized as a simple debt and often cause a legal uncertainty, especially on the position of personal guarantor on the transferable debt/cessie in case of the same legal entity as in the case of Supreme Court Verdict No . 750 K / Pdt.Sus-Bankrupt / 2016. This study aims to determine the legal position of filing a bankruptcy lawsuit in case of the same entity. This research used judicial normative methodology because it uses library materials as the main data to analyze the case. Based on the results of the study and discussion, the Panel of Judges rejected the petition for bankruptcy lawsuit with the legal reasoning that the proposed bankruptcy petition is not simple because there are differences of interpretation regarding the legal standing of creditors, the existence of debts which has matured and became payable and the legal consequences of the agreement that was not made into Indonesian language. In contrast, the difference in interpretation should not be an excuse for refusing a bankruptcy petition if there is a simple fact or circumstance. In fact, the one that requires further and deeper verification is the agreement that was not made into Indonesian language between both parties because the Commercial Court is not authorized to decide whether the agreement is null and void.

Keyword : bankruptcy, null and void, the same entity

Reference : 32 (1974-2010)