

ABSTRAK

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ANALISIS PUTUSAN PN NIAGA NOMOR 16/PDT.SUS-GGL/2017/PN.NIAGA JAKARTA PUSAT TERKAIT SITA UMUM DAN SITA PIDANA DALAM HUKUM KEPAILITAN

(xiii + 60 halaman : 0 gambar ; 0 tabel ; 3 lampiran)

Penelitian ini membahas tentang analisis putusan Pengadilan Niaga Nomor 16/PDT.Sus-GGL/2017/PN.Niaga Jakarta Pusat pada perkara PT. Meranti Maritime dan Henry Djuhari. Permasalahan pada penelitian ini terletak pada sita pidana yang diletakkan atas harta debitur pailit yang telah berada dibawah sita umum. Penelitian ini menggunakan metode penelitian Yuridis Normatif, dengan pendekatan peraturan perundang-undangan, pendekatan konsep, dan pendekatan kasus, serta pengolahan bahan hukum yang dilakukan secara studi pustaka. Berdasarkan Pasal 24 ayat (1) *jo.* Pasal 31 ayat (2) Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, putusan pernyataan pailit mengakibatkan seluruh kekayaan debitur berada dalam sita umum dan menghapus sitaan lainnya. Namun, pada praktiknya sita umum seringkali berbenturan dengan sita pidana yang dilegitimasi berdasarkan Pasal 39 ayat (2) Undang-Undang Nomor 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana. Hasil penelitian menunjukkan bahwa guna menentukan sita mana yang harus didahulukan, maka hakim pada Pengadilan Niaga dapat memberikan pertimbangan hukum dengan memperhatikan faktor urgensi dan relevansi atas sita pidana yang dilakukan. Kesimpulan pada penelitian ini adalah sita pidana dapat diletakkan atas sita umum apabila harta pailit yang hendak disita terbukti memiliki keterkaitan dengan tindak pidana yang dilakukan.

Kata Kunci: kepailitan, sita umum, sita pidana, pengadilan niaga.

Referensi: 28 (1847 – 2021).

ABSTRACT

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THE ANALYSIS OF INDONESIAN COMMERCIAL COURT VERDICT NUMBER 16/PDT.SUS-GGL/2017/PN.NIAGA JAKARTA PUSAT RELATED TO GENERAL CONFISCATION OF BANKCRUPTCY AND CRIMINAL CONFISCATION IN BANKCRUPTCY LAW

(xiii + 60 pages : 0 picture ; 0 table ; 3 attachment)

This research discusses the analysis of Indonesian Commercial Court Verdict Number 16/PDT.Sus-GGL/2017/PN.Niaga Jakarta Pusat towards PT. Meranti Maritime and Henry Djuhari case. The problem of this research lies on the criminal confiscation that placed on debtor's assets which have been placed under the general bankruptcy confiscation. This research is written using a type of Normative Juridical research, with statutes, conceptual, and case approaches in which the processing of legal materials is carried out in a literature study. Based on Article 24 Paragraph (1) jo. Article 31 Paragraph (2) Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, the implication of a bankruptcy decision is that the whole property riches of the debtor will be placed under the general confiscation and the confiscate will remove the other confiscation. However, the general bankruptcy confiscation still frequently collided in practice with the criminal confiscation that legitimized under the Article 39 Paragraph (2) Law Number 8 of 1981 concerning Criminal Procedure Law. The result of the research revealed that in order to determine which seizure must take precedence, the judge at the Commercial Court can give the legal condiseration by taking the urgency and relevance factor of the act of criminal confiscation. This research concluded that the criminal confiscation can be placed on general bankruptcy confiscation if the debtor bankruptcy property is proven to be related with the criminal act committed.

Keywords: bankruptcy, general confiscation, criminal confiscation, commercial court.

Reference: 28 (1847 – 2021).