

ABSTRACT

Angela Benita Budiman (01051200030)

LEGAL PROTECTION FOR PRIVATE BANKS AS SEPARATIST CREDITORS IN EXECUTING DEPENDENCE GUARANTEES DURING THE PERIOD OF INSOLVENTION (CASE STUDY OF VERDICT NUMBER 15/PDT. SUS-GUGATAN LAIN-LAIN/2023/PN.NIAGA.SMG)

(190, xii, 2 images, 3 tables, 5 attachments)

The execution rights of private banks as separatist creditors are regulated in Article 6 and Article 21 of Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land which gives special rights to separatist creditors to carry out the execution of mortgage rights objects through public auction on its own authority. However, this provision has a conflict with the provisions contained in Article 56 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations which regulates that the execution rights owned by separatist creditors are suspended in advance for 90 (ninety) days and Article 59 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations which regulates the execution time limit for separatist creditors to carry out execution no later than 2 (two) months after the insolvency period begins. The results of this research found that the principle of *lex specialis derogat legi generali* applies where Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations applies as *lex specialis*. Furthermore, based on research into Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, the rights of separatist creditors remain protected. Based on the judge's decision in Case Study of Verdict Number 15/Pdt. Sus-Gugatan Lain-Lain/2023/PN.Niaga.Smg, it can be seen that the panel of judges provided legal protection in the form of confirmation of the insolvency period in accordance with the provisions of Article 178 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. This research uses a normative-empirical research method with a case study approach.

Keywords: Bankruptcy, Separatist Creditors, Mortgage Rights

References: 119 (1945-2023)