

RECEIVING ACHIEVED IN BANKRUPTCY ORIGIN FROM SUSPENSION OF DEBT PAYMENT OBLIGATIONS

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Abstract

Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt (PKPU) only prohibits debtors from submitting a reconciliation plan if declared bankrupt based on Article 285, Article 286 and Article 292. Thus, the decision to declare bankruptcy resulting from other than the provisions of Article 285, Article 286 and Article 291 of the Bankruptcy and PKPU Law, it is still permissible to propose a reconciliation plan in bankruptcy in accordance with the provisions of Article 144 of the Bankruptcy and PKPU Law. Article 144 of the Bankruptcy Law & PKPU states that every bankrupt debtor has the right to offer peace to all of his creditors. That is, the settlement can be offered by the debtor after the debtor is declared bankrupt by the Commercial Court. This research aims to answer legal issues regarding the legal position of debtors and creditors in bankruptcy after the rejection of the peace plan in the PKPU process. To answer the research problem, this study uses a type of normative legal research with a statutory approach, a conceptual approach, and a case approach in the form of a Surabaya Commercial Court decision which has permanent legal force. The data used are secondary data in the form of primary, secondary and tertiary materials, obtained through library research or document studies. The results of this study indicate that debtors and creditors can still reach peace even though the Commercial Court has declared the debtor in a state of bankruptcy originating from PKPU. The legal considerations of the panel of judges in ratifying the reconciliation of PT Anugrah Kembang Sawit Sejahtera in bankruptcy originating from PKPU as stated in Decision No. 59/Pdt.Sus-PKPU/2019/PN.Niaga.Sby at the Commercial Court at the Surabaya District Court is the result of voting for a bankruptcy debtor's settlement proposal that has been approved by creditors in accordance with Article 151 of the Bankruptcy Law and PKPU which is then set forth in a peace agreement. In addition, the Court did not find any reasons for refusing to ratify the settlement in accordance with Article 159 paragraph (2) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt, the court is obliged to give a decision regarding the ratification of the settlement.

Keywords: Debtors, Creditors, Peace

INTRODUCTION

Bankruptcy is a process in which a debtor who has financial difficulties paying his debts is declared bankrupt by a court, in this case a commercial court, because the debtor is unable to pay his debts. quickly against the assets of the debtor who is declared bankrupt.¹

This principle is adhered to in the civil law system in Indonesia. This is contained in Article 1311 of the Civil Code which states that all the assets of the debtor, both movable and immovable, both those that already exist and those that will exist in the future, are borne by all the engagements of the individual. Meanwhile, the principle of *pari passu protate parte* means that the assets are joint guarantees for the creditors and the results must be distributed proportionally between them, except if there are creditors who, according to the law, must take precedence in receiving payment of their bills.

A debtor who has two or more creditors and does not pay off at least one debt that has matured and is payable is declared bankrupt by a court decision, either at his own request or at the request of one or more of his creditors. If the debtor is declared bankrupt, then all of the debtor's property will be in general confiscation and under the management of a curator appointed by the court. Bankruptcy includes all of the Debtor's assets at the time the bankruptcy declaration decision was pronounced as well as everything that was obtained during the bankruptcy. The debtor by law loses his right to control and manage his assets which are included in the bankruptcy estate, from the date the bankruptcy declaration decision is pronounced. Therefore, the duties and authorities of the Curator are to administer and or settle the bankruptcy estate.

Postponement of Debt Payment Obligations (PKPU) is an opportunity given by the Court to the Debtor to restructure his debts by submitting a reconciliation plan to all of his Creditors so that if an agreement is reached between the Debtor and his Creditors, the Debtor can continue his business without having to be declared bankrupt.

Not all debtors who are unable to pay their debts must go bankrupt. Due to certain reasons, the debtor may request or ask for a postponement of debt payment obligations, by submitting a settlement plan that contains an offer of debt repayment to all creditors. During the postponement of the debt payment obligation, the debtor is still given the opportunity to try and at the same time improve the debt structure.²

Requests for postponement of debt payments can be accompanied by submitting a settlement proposal for debt payments from the debtor to the creditor. For the Debtor, offering a settlement is often the only way to reach settlement of his debts with all of his Creditors.³

The purpose of homologation between debtors and creditors is to prevent a debtor from being declared bankrupt which results in the sale of assets and the company being forced to stop. Meanwhile, if the company can continue to run, the debtor will not lose his assets and creditors may get payment of their receivables more satisfactorily than if the debtor is declared bankrupt.⁴

If the settlement plan is rejected by the creditor, the debtor is declared bankrupt by the court with all the legal consequences.⁵ Bankruptcy is a general confiscation of all the assets of the Bankrupt Debtor whose management and settlement are carried out by the Curator under the supervision of the Supervisory Judge.

¹Ivinda Dewi Amri Suci and Herowati Poesoko, *Bankruptcy Law and the Rights of Separatist Creditors for Collateral Items for Bankrupt Debtors*, Yogyakarta: Lakbang Presindo, 2021, Pg. 64.

²*Ibid.*, p. 102.

³JBHuizink, *Insolventie*, (Jakarta: Translator of the Center for Law and Economic Studies, Faculty of Law, University of Indonesia, 2004), Pg. 165.

⁴Tedy Herlambang, et al, *Legal Certainty for Execution of Agreements That Have Been Ratified (Homologation)*, 2017, *Journal of Nuances of Notary*, Pg. 29.

⁵Elyta Ras Ginting, *Op. cit*, p. 289.

Article 292 of the Bankruptcy Law and PKPU states "In a bankruptcy statement decision that is decided based on the provisions referred to in Articles 285, 286 or Article 291 no reconciliation can be offered". Article 285 of the Bankruptcy Law and PKPU basically regulates that the debtor is declared bankrupt because the court refuses to ratify the settlement that has been reached. Whereas Article 286 of the Bankruptcy Law and PKPU states "A settlement that has been ratified is binding on all creditors, except for creditors who do not agree to the settlement plan as referred to in 281 paragraph (2)". Then Article 291 of the Bankruptcy Law and PKPU basically regulates the Bankrupt Debtor due to the Cancellation of the Settlement by the Court.

Article 144 of the Bankruptcy Law & PKPU states that every bankrupt debtor has the right to offer peace to all of his creditors. That is, the settlement can be offered by the debtor after the debtor is declared bankrupt by the Commercial Court.⁶ The reconciliation plan will be accepted if it is approved at the meeting of creditors by more than $\frac{1}{2}$ of the number of concurrent creditors present at the meeting and only acknowledged or temporarily acknowledged, representing at least $\frac{2}{3}$ of the total amount of concurrent receivables recognized or temporarily recognized from concurrent creditors or their proxies who attended the meeting in accordance with the provisions of Article 151 of the Bankruptcy & PKPU Law.

If the peace plan is accepted, then the Court is obliged to give a decision regarding the ratification of the peace accompanied by the reasons at the assembly deliberative session. The ratified settlement applies to all creditors who do not have the right to precedence, with no exceptions, whether they have filed for bankruptcy or not.

PT Bankruptcy Anugrah Kembang Sawit Sejahtera (In Bankruptcy) Decision No. 59/Pdt.Sus-PKPU/2019/ PN.Niaga.Sby at the Commercial Court at the Surabaya District Court comes from PKPU. PT. Anugrah Kembang Sawit Sejahtera was originally declared PKPU and had submitted a peace proposal to all of its creditors, but then the peace was rejected so that PT. Anugrah Kembang Sawit Sejahtera is declared bankrupt. During the bankruptcy process, the Debtor again submitted a peace proposal to all of his Creditors, and then the peace proposal was accepted and approved by approximately 98% (Ninety eight percent) of his Creditors. PT Bankruptcy Anugrah Kembang Sawit Sejahtera ended because of peace and PT. Anugrah Kembang Sawit Sejahtera is back to running its business activities as before. The peace that was achieved in the bankruptcy proves that all creditors still see the opportunity for PT. Anugrah Kembang Sawit Sejahtera can pay all of its debts within a specified timeframe. As soon as the decision regarding the ratification of the settlement obtains permanent legal force, the reconciliation binds all concurrent creditors without exception and ends the bankruptcy concerned.⁷

Based on this, the peace of PT. Anugrah Kembang Sawit Sejahtera is valid and binding on all creditors because it has complied with the provisions of Article 144 and Article 292 of the Bankruptcy Law and PKPU.

Means of reconciliation in bankruptcy is very important for the interests of the business world in resolving debt problems fairly, quickly, openly and effectively to support the growth and development of the national economy. Through peace, it is hoped that the Debtor can complete the payment of his debts to his Creditors while maintaining the continuity of his business.

A new challenge in the Commercial Court in Indonesia is the issuance of the Supreme Court Circular Letter (SEMA) Number 5 of 2021, point 2 letter (a) The formulation of the Special Civil Chamber states that debtors who are declared bankrupt as a result of a

⁶Sutan Remi Sjahdeini, *History, Principles, and Theory of Bankruptcy Law*, (Jakarta: Prenadamedia Group, 2018), Pg. 479.

⁷Bernard Nainggolan, *Ibid.*, p. 36.

reconciliation plan are rejected by creditors as referred to in Article 289 of the Bankruptcy Law, it is no longer justified to submit a peace plan. SEMA N0. 5 of 2021 clearly contradicts the contents of Article 292 of the Bankruptcy Law and PKPU because Article 292 of the Bankruptcy Law and PKPU does not prohibit debtors who are declared bankrupt as a result of Article 289 of the Bankruptcy Law and PKPU from submitting a peace plan in bankruptcy.

RESEARCH METHODS

The research method used is normative legal research, namely legal research conducted by collecting library materials that are reviewed by conducting literature. Normative legal research uses deductive thinking (withdrawal thinking). Conclusions can be drawn from generally accepted and correct data. Conclusions are based on the object of analysis in a qualitative way, that is, it refers to legal norms and regulations. The data collection technique used is library research, which is carried out by studying the laws and legal books related to the legal issues that the researcher is raising.

RESULT AND DISCUSSION

1. Legal Position of Debtors and Creditors in Bankruptcy After the Rejection of the Peace Plan in the PKPU Process

a. Position of Creditors in Bankruptcy After the Rejection of the Peace Plan in the PKPU Process

Creditors are people who have receivables due to agreements or laws that can be collected in court. In the Postponement of Debt Payment Obligations, creditors who estimate that the Debtor cannot continue to pay his debts which are due and collectible, may request that the Debtor be granted a postponement of debt payment obligations, to allow the Debtor to submit a reconciliation plan which includes an offer to pay part or all of the debt to the creditor.

In bankruptcy, creditors occupy the most important position, and the duties of the curator and supervisory judge are primarily in the context of realizing the interests of creditors.⁸

Similarly, in bankruptcy, a creditor can also apply for bankruptcy against a debtor who has two or more creditors and does not pay off at least one debt that is due and payable, is declared bankrupt by a court decision.

Creditors in PKPU (in this case concurrent creditors and separatist creditors) have the right to vote to approve or reject the peace plan offered by the debtor. However, in bankruptcy, only concurrent creditors have the right to vote to approve or reject the peace plan offered by the debtor. Meanwhile, separatist creditors do not have voting rights.

b. Debtor's Position in Bankruptcy After the Rejection of the Peace Plan in the PKPU Process

A bankruptcy declaration decision changes the legal status of the debtor to become incompetent (on bevregh) to carry out legal actions, control and manage his assets since the bankruptcy declaration decision is pronounced.

Debtors are people who have debts due to agreements or laws whose repayment can be billed before the court. Debtors for Postponement of Debt Payment Obligations (PKPU) who apply for PKPU must attach a peace plan in their application, in other words, in PKPU the debtor must submit a peace plan because the spirit of PKPU is peace.

Through the peace plan, the debtor tries to convince his creditors to accept the

⁸Bernard Nainggolan, *Transparency in Settlement of Bankrupt Boedel*, Bandung: PT Alumni, 2015, Pg 43.

payment scheme offered by the debtor. The peace plan must be discussed jointly by the debtor and creditors. After discussing the peace plan, a vote will be carried out by creditors who have voting rights.

If the peace plan is rejected, the court must declare the debtor bankrupt. After being declared bankrupt, the provisions regarding bankruptcy as referred to in Chapter II apply, except for Article 11, Article 12, Article 13 and Article 14.⁹ After being declared bankrupt, the debtor's position, which was originally a Suspension of Obligations for Payment of Debt (PKPU) debtor, changed to a bankrupt debtor. Bankrupt debtors as referred to in Article 1 point 4 of the Bankruptcy Law and PKPU, bankrupt debtors are debtors who have been declared bankrupt by a court decision. The bankrupt debtor is the party requesting or being petitioned for bankruptcy to the competent court.¹⁰

During the postponement of debt payment obligations, in accordance with Article 240 paragraph (1) of the Bankruptcy Law and PKPU, the debtor can still carry out management actions or ownership of all or part of his assets with the approval of the management. However, after being declared bankrupt, in accordance with the provisions of Article 24 paragraph (1) of the Bankruptcy Law and PKPU, the Debtor by law loses his right to control and manage his assets which are included in bankruptcy assets, from the date the bankruptcy declaration decision is pronounced.¹¹ The authority to manage and/or settle bankrupt assets is transferred to the Curator.

The curator is a party that plays an important role in the bankruptcy settlement process.¹² In carrying out its duties, the Curator is not required to obtain approval from or provide prior notification to the Debtor or one of the Debtor's organs, even though in circumstances outside of bankruptcy such approval or notification is required. Curators can also make loans from third parties, only in order to increase the value of bankruptcy assets.

c. Peace in Bankruptcy Derived from Postponement of Debt Payment Obligations (PKPU)

In the Postponement of Debt Payment Obligations (PKPU), if the debtor requests PKPU, the debtor must attach a peace plan in his application, in other words, in PKPU the debtor must submit a peace plan because the spirit of PKPU is peace. In contrast to bankruptcy which only gives the debtor the right to submit a peace plan.

Creditors entitled to vote at voting meetings are concurrent creditors and separatist creditors. Based on Article 281 paragraph (1) of the Bankruptcy Law and PKPU, a reconciliation plan can be accepted based on:

- a. approval of more than 1/2 (one half) of the number of concurrent creditors whose rights are recognized or temporarily acknowledged who are present at the meeting of Creditors as referred to in Article 268 including Creditors as referred to in Article 280, who jointly represent at least 2/3 (two thirds) part of all claims that are acknowledged or temporarily acknowledged from concurrent creditors or their proxies who are present at the meeting; And
- b. Approval of more than 1/2 (one half) of the number of Creditors whose receivables are guaranteed by pledge, fiduciary guarantee, encumbrance, mortgage, or collateral rights over other materials who are present and represent

⁹Article 290 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

¹⁰Bernard Nainggolan, *Ibid.*, p. 44.

¹¹Article 24 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

¹²Bernard Nainggolan, *Ibid.*, p. 46.

at least 2/3 (two thirds) of the entire bill of the Creditors or their proxies present at the meeting.¹³

If the peace plan is rejected, the court must declare the debtor bankrupt. After being declared bankrupt, then according to the provisions of Article 290 of the Bankruptcy Law and PKPU, If the Court has declared the Debtor Bankrupt then the bankruptcy declaration provisions as referred to in Chapter II shall apply, except Article 11, Article 12, Article 13 and Article 14.¹⁴ Article 290 of the Bankruptcy and PKPU Law confirms that the provisions of Article 144 of the Bankruptcy and PKPU Law apply to debtors who are declared bankrupt as a result of the rejection of the peace plan in PKPU.

In the event that a bankruptcy declaration decision is made based on the provisions referred to in Articles 285, 286 or Article 291, reconciliation cannot be offered.¹⁵ Based on the provisions of Article 292 of the Bankruptcy Law and PKPU, a debtor cannot offer peace if the decision to declare bankruptcy is based on:

1. Article 285 of the Bankruptcy Law and PKPU:
The court refuses to ratify the settlement, so the debtor is declared bankrupt.
2. Article 286 of the Bankruptcy Law and PKPU:
The settlement that has been ratified is binding on all Creditors, except for separatist Creditors who do not agree to the peace plan.
3. Article 291 of the Bankruptcy Law and PKPU:
The court canceled the peace so that the Debtor must be declared bankrupt.

Thus, the decision to declare bankruptcy caused by matters other than the provisions of Article 285, Article 286 and Article 291 of the Bankruptcy Law and PKPU, is still permitted to propose a reconciliation plan in bankruptcy in accordance with the provisions of Article 144 of the Bankruptcy Law and PKPU.

Article 144 Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations states that the Bankrupt Debtor has the right to offer a settlement to all creditors.¹⁶ Article 144 of the Bankruptcy Law and PKPU gives rights to debtors who are declared bankrupt to submit a peace plan to their creditors to be mutually agreed upon.

Through the peace plan, the creditors are expected to give the debtor the opportunity to improve his company and make payments on his debts according to the ability of the debtor. Acceptance or rejection of the peace plan is absolutely the decision of the creditors who have the right to vote.

In bankruptcy, concurrent creditors are entitled to vote at a voting meeting. The reconciliation plan is accepted if it is approved at the Creditors' meeting by more than 1/2 (one half) of the number of concurrent creditors present at the meeting and whose rights are recognized or temporarily acknowledged, representing at least 2/3 (two thirds of the total concurrent receivables). acknowledged or temporarily acknowledged from concurrent creditors or their proxies present at the meeting.¹⁷

If the peace plan is accepted, then the Court is obliged to give a decision regarding the ratification of the peace accompanied by the reasons at the assembly deliberative session. The ratified settlement applies to all creditors who do not have the right to precedence, with no exceptions, whether they have filed for bankruptcy or not.

¹³Article 281 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

¹⁴Article 290 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

¹⁵Article 292 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations

¹⁶Article 144 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

¹⁷Article 151 Law no. 37 of 2004 concerning bankruptcy and Suspension of Debt Payment Obligations.

2. Legal Considerations of the Panel of Judges in Endorsing Peace in Bankruptcy Derived from Postponement of Debt Payment Obligations (PKPU)

PT Bankruptcy Anugrah Kembang Sawit Sejahtera (In Bankruptcy) Decision No. 59/Pdt.Sus-PKPU/2019/ PN.Niaga.Sby at the Commercial Court at the Surabaya District Court originates from the Postponement of Debt Payment Obligations (PKPU). PT Anugrah Kembang Sawit Sejahtera was originally declared PKPU and had submitted a peace proposal to all of its creditors, but then the peace plan was rejected by its creditors so that PT Anugrah Kembang Sawit Sejahtera was declared bankrupt.

In the bankruptcy of PT Anugrah Kembang Sawit Sejahtera, the debtor again submitted a peace proposal to all of his creditors. After discussing the peace plan between the debtor and his creditors, and after receiving input from his creditors, the peace plan was revised by the debtor. Then at the voting meeting, the peace plan was accepted and approved by approximately 98% (Ninety eight percent) of the creditors. With the acceptance of the peace plan, the bankruptcy of PT Anugrah Kembang Sawit Sejahtera ended due to peace.

After its bankruptcy ended, PT Anugrah Kembang Sawit Sejahtera resumed its business activities as before. The settlement that was reached in the bankruptcy proves that all of its creditors still see an opportunity for PT Anugrah Kembang Sawit Sejahtera to be able to pay all of its debts within the specified time limit.

The Surabaya Commercial Court Panel of Judges who examined and tried the case in Decision No. 59/Pdt.Sus-PKPU/2019/PN Niaga Sby Endorsed Peace in the Bankruptcy of PT Anugrah Kembang Sawit Sejahtera Derived from Postponement of Debt Payment Obligations (PKPU).

The judge's legal considerations in ratifying the settlement of PT Anugrah Kembang Sawit Sejahtera in bankruptcy originating from PKPU are as follows:

1. The reconciliation plan proposed by the bankrupt debtor, the Curator Team and the Supervisory Judge have held a voting meeting with the results of the voting for the bankruptcy debtor's peace proposal approved by 21 concurrent creditors with a total of 137,220 votes and the number of agreed concurrent creditors' bills of Rp. 1,372,235,668,326.55 (=99.68%). The peace proposal was rejected by 1 creditor with a total of 189 votes. Because the peace plan was approved at the meeting of creditors in accordance with the vote count provisions in Article 151 of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, an agreement was reached for the concurrent creditors and the voting results were accepted.
2. The peace plan for bankrupt debtors and creditors that has been approved and accepted has been set forth in a peace agreement.
3. In accordance with the provisions of article 159 of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt the panel of judges is obliged to give a decision regarding the ratification of the peace agreement.
4. The peace agreement has been approved and signed by the debtor and creditors, so the supervisory judge recommends that the panel of judges decide to ratify the peace agreement.
5. The court did not find any reasons for refusing to ratify the settlement in accordance with Article 159 paragraph (2) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt, the court is obliged to give a decision regarding the ratification of the settlement.

Based on this, the settlement of PT Anugrah Kembang Sawit Sejahtera is legitimate and binding on all of its creditors because it has complied with the provisions of Article 144 and Article 292 of the Bankruptcy Law and PKPU.

In 2021, the Supreme Court of the Republic of Indonesia issued SEMA No. 5 of

2021 which contradicts Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. Provisions of Civil Chamber Legal Formulation Point 2 Letter a SEMA No. 5 of 2021 states "Debtors who are declared bankrupt as a result of the reconciliation plan are rejected by creditors as referred to in the provisions of article 289 of Law No. 37 of 2004 concerning bankruptcy and Suspension of Obligations for Payment of Debt is not justified in submitting a peace plan again.

Provisions of Civil Chamber Legal Formulation Point 2 Letter a SEMA No. 5 of 2021 contradicts the provisions of Article 144 of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt which regulates "Bankrupt Debtors have the right to offer a settlement to all Creditors". Apart from that, in Article 292 of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt stipulates "In a bankruptcy statement decision decided based on the provisions referred to in Articles 285, 286 or Article 291 no settlement can be offered".

Based on Article 144 of the Bankruptcy Law and PKPU, debtors who are declared bankrupt have the right to propose a reconciliation plan. Then Article 292 of the Bankruptcy Law and PKPU limits the provisions of Article 144 of the Bankruptcy Law and PKPU by prohibiting the Debtor from submitting a reconciliation plan if the Debtor is declared bankrupt based on the provisions of Article 285, Article 286 and Article 291 of the Bankruptcy and PKPU Law. Bankruptcy declaration decisions caused by matters other than the provisions of Article 285, Article 286 and Article 291 of the Bankruptcy Law and PKPU, are still permitted to propose a reconciliation plan in bankruptcy in accordance with the provisions of Article 144 of the Bankruptcy Law and PKPU.

Article 292 of the Bankruptcy Law and PKPU in no way accommodates Article 289 of the Bankruptcy Law and PKPU, so that if the Debtor is declared bankrupt based on Article 289 of the Bankruptcy Law and PKPU, the Bankrupt Debtor has the right to submit a peace plan according to the provisions of Article 144 of the Bankruptcy Law and PKPU. This proves SEMA No. 5 of 2021 has contradicted the Bankruptcy and PKPU Laws and created legal uncertainty for the Curator in carrying out his duties and authorities.

Means of reconciliation in bankruptcy is very important for the interests of the business world in resolving debt problems fairly, quickly, openly and effectively to support the growth and development of the national economy. Through peace, it is hoped that the Debtor can complete the payment of his debts to his Creditors while maintaining the continuity of his business.

One of the objectives of the establishment of the Bankruptcy and PKPU Laws is to support national economic growth, namely by guaranteeing legal certainty in resolving the problems of debtors and their creditors in a fair, open, fast and effective manner. One way to solve the debt problem is through peace. Therefore, giving the Debtor the opportunity to offer a peace plan to his Creditors is very important to maintain the continuity of the Debtor's business so that it can remain productive.

The importance of the theory of legal certainty examines Peace in Bankruptcy Derived from Postponement of Debt Payment Obligations (PKPU) to provide legal certainty in enforcing bankruptcy law in Indonesia. It is this theory of legal certainty that will prevent free interpretations of the contents of the articles of the Bankruptcy Law and PKPU, especially Articles 144 and 292. Legal certainty is a legal instrument of a country capable of guaranteeing the rights and obligations of every citizen. Legal devices are rules that must be obeyed by every citizen so that the state must consider carefully so that these legal instruments are able to guarantee the rights and obligations of every citizen so that the existence of these citizens is protected.

CONCLUSION

The position of the debtor in bankruptcy according to Article 240 paragraph (1) of the bankruptcy law and PKPU, the debtor can still carry out management actions or ownership of all or part of his assets with the approval of the management. However, after being declared bankrupt, in accordance with the provisions of Article 24 paragraph (1) of the Bankruptcy Law and PKPU, the Debtor by law loses his right to control and manage his assets which are included in bankruptcy assets, from the date the bankruptcy declaration decision is pronounced. The authority to manage and/or settle bankrupt assets is transferred to the Curator. The position of the creditor who estimates that the debtor is unable to continue paying his debts which are due and collectible, can request that the debtor be given a postponement of debt payment obligations.

The legal considerations of the panel of judges in ratifying the settlement of PT Anugrah Kembang Sawit Sejahtera in bankruptcy originating from PKPU were the results of voting on the bankruptcy debtor's peace proposal which had been approved by creditors in accordance with Article 151 of the Bankruptcy Law and PKPU which was then set forth in a peace agreement. In accordance with the provisions of article 159 of Law no. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt the panel of judges is obliged to give a decision regarding the ratification of the peace agreement. In addition, the Court did not find any reasons for refusing to ratify the settlement in accordance with Article 159 paragraph (2) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt, the court is obliged to give a decision regarding the ratification of the settlement.

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