

Decision Analysis Of Debt Payment Obligations Number 270/Pdt.Sus-Pkpu/2019/Pn.Niaga.Jkt.Pst Regarding Legal Attempt To Fulfill The Rights Of Workers/Labors

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Abstract : Decisions towards industrial relations disputes which have permanent legal force and certainty in its implementation are expected to guarantee justice for the parties, especially workers/labors. However, in practice, it is not easy to execute a decision that has permanent legal force, encouraging workers/labors to use the bankruptcy institution as an effort to obtain payment for their rights that have been regulated in the provisions of the legislation. This study aims to analyze the decision for debt payment obligation postponement of the Commercial Court at the Central Jakarta District Court Number 270/Pdt.Sus-PKPU/2019/PN.Niaga/Jkt.Pst related to legal attempt to fulfill workers' rights. According to the results of this paper, it can be seen that the court's decision which has permanent legal force punishing employers to pay for the rights of workers/labors is a debt in a broad sense. Industrial relations court decisions which have permanent legal force but cannot be implemented can be submitted as the basis for a request for suspension of obligation to pay debts. In this case, the court refers to the definition of debt in a broad sense, the debt has matured, the existence of two or more creditors, and the application of simple evidence.

Keywords: Debt Payment Obligation Postponement, Rights, Workers.

1. Introduction

The right of work and decent living for humanity, since the founding of this country, has been designated as a citizen's human right specifically contained in the 1945 Constitution which is the constitutional basis of this country. Therefore, there must be protection of the rights of workers/labors regulated in the regulations enforced in Indonesia. The protection referred to is in the context of guaranteeing the basic rights of workers/labors, legal protection, and certainty in order to realize the welfare of workers/ labors.[1]

Increased protection of the rights of workers/labors is something that must be fought for so that the dignity and humanity of workers are raised. Protection is intended to guarantee the basic rights of workers/labors by taking into the progress of the national and international business world.[2] Some of the workers'/labors' rights include receiving proper remuneration and treatment in an employment relationship. As stated in Article 28D of the 1945 Constitution, everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship. In fact, the company does not always experience stable growth; even a company can experience bankruptcy.[3]

According to the Law of the Republic of Indonesia Number 13 Year 2003 concerning Manpower, Article 156 paragraph (1) states that in the event of termination of employment, the entrepreneur is required to pay severance pay and or compensation for the period of service and compensation that should have been received. Thereby, it can be seen that the company has obligations to workers/labors when there is termination of employment.[4]

Although this law has been enacted, the protection of workers/labors has not been maximally implemented. It is because sociologically, the position of workers/labors is weaker than the entrepreneur.[5] As a result of such a sociological condition, if there is an industrial relations dispute between the workers/labors and the company, especially regarding rights disputes over termination of employment, the position of workers/laborers with the entrepreneurs is not balanced in litigation in court. Therefore, there is a need for fair legal certainty for workers/labors and entrepreneurs. This legal certainty is realized to end a prolonged dispute between workers/labors and entrepreneurs that affects the production process for entrepreneurs and can disrupt the economy of the workers'/labors' families.[6]

Legal certainty in court decisions implemented is a decision that already has permanent legal force (in kracht van gewijsde),

namely a decision that is no longer possible to be challenged with legal attempt of verzet, appeal, and cassation. One example of a decision that has permanent legal force but is not implemented is the decision on the case of employment relation termination of Abdul Hakim et al as labors by PT. Internusa Food in the decision of the Supreme Court of the Republic of Indonesia Number 1073 K/Pdt.Sus-PHI/2018. The Supreme Court of Cassation has decided that this case has sentenced the defendant to pay the rights of the plaintiffs with the total of Rp247.075.200,00. As a result, the labors apply for a postponement of the obligation to pay debts which are part of the bankruptcy law, to obtain legal certainty of their rights through the bankruptcy institution based on a court decision that has permanent legal force. Based on these problems, a research analysis is carried out entitled "Decision Analysis of Debt Payment Obligations Number 270/Pdt.Sus-PKPU/2019/PN.Niaga.Jkt.Pst Regarding Legal Attempt to Fulfill the Rights of Workers/Labors".

2. Research Problem

1. How is the position of workers'/labors' rights in terms of the law of labor and the law on bankruptcy and debt payment obligation postponement?
2. How can the decision of the Supreme Court with permanent legal force be the basis for submitting a request for debt payment obligation postponement?

3. Literature Review

3.1 Workers/Labors

According to Law Number 13 Year 2003 Article 1, a worker/labor is any person who works by receiving wages or other forms of remuneration. Worker/labor is any person who is able to do work to produce goods and services either to meet the needs of himself or the community.[7]

According to Yuniati, workers are residents aged between 17 and 60 years old who work to earn their own money.[8] In addition, according to Rizki, workers are people who work inside and outside the working relationship with the main production tools in the production process both physically and mentally.[9]

According to Zulkarnain Ibrahim, workers are a factor of production that is homogeneous within a country, but is heterogeneous (not identical) between countries. The development plan contains activities to be carried out by the economic sector or sub-sector. Each development plan simultaneously reflects the needs of educated workers from each type and level of education.[10]

According to Oki Wahyu Budijanto, workers are people who are looking for work and those who are already working. Therefore, someone who still has not found a job or is unemployed is also still referred to as a worker. However, people who have not found work are referred to as unproductive workers. In this case, anyone who tries to be able to work can already be said to be a worker.[11]

3.2 Limited Liability Company

According to R. Ali Rido, the definition of PT is a form of company that runs a company, established by joint legal action by several people with certain capital divided into shares whose members can own one or more shares and are responsible for the number of shares owned.[12]

According to Zaeni Asyhadie, a limited liability company is a form of business with a legal entity originally known as Naamloze Vennootschap (NV). The term "limited" in a limited liability company refers to the liability of shareholders which is limited to the nominal value of all the shares they own.[13]

According to Soedjono Dirjosisworo, a limited liability company or PT is a legal entity established under an agreement, conducting business activities with authorized capital which is entirely divided into share and fulfilling the requirements stipulated in Law no. 40 Year 2007 and its implementing regulations.[14]

In conclusion, a Limited Liability Company is a form of business that is incorporated and jointly established by several people, with a certain capital divided into shares whose members can own one or more shares and are limited in liability up to the number of shares they own.

3.3 Debt Payment Obligation Postponement

According to Hasdi Hariyadi, the definition of deferment of debt payment obligations is providing an opportunity for debtors to restructure their debts, either which includes payment of all debts or part of their debts to concurrent creditors. If

it can be done well, the debtor can still continue his business in the end.[15]

Fred B.G. Tumbuan argues that the debt payment obligation postponement is not a situation where the debtor is unable to pay their debts or is insolvent. Debt payment obligation postponement is a vehicle provided for debtors to resolve financial difficulties in order to continue their lives.[16]

Munir Fuady states that the postponement of the obligation to pay debts is a period provided by law through a commercial court judge's decision, in which during that period, creditors and debtors are given the opportunity to discuss the method of paying their debts in whole or in part, including restructuring the debt.[17]

According to Sutan Remy Sjahdeini, postponement of debt payment obligations is an effort made by the debtor to avoid bankruptcy or an effort to avoid the liquidation of assets when the debtor has or will be in an insolvency state.

From the definitions above, it can be concluded that the postponement of debt payment obligations is a moratorium or opportunity for debtors to be able to resolve their debt disputes by taking steps to make peace and deliberation with their creditors so that they can avoid the liquidation of their assets and can still continue their business.

The purpose of the debt payment obligation postponement is to avoid bankruptcy which leads to the liquidation of assets. The postponement of debt payment obligations is not only intended for the benefit of the debtor, but also for the benefit of the creditor. In addition, the purpose of postponing debt repayment obligations is to prevent bankruptcy, provide opportunities for debtors to continue their business without any pressure to pay off their debts to creditors, and to make their business healthy. Thus, in essence, the ultimate goal of postponing the obligation to pay debts is to make peace between debtors and creditors to come to a mutual agreement and set out in a peace plan.

4. Research Method

The approach used in this research is regulation. According to Soerjono Soekanto, the regulatory approach is legal research carried out by examining library materials or secondary data as the basis for research by tracing regulations and literature related to the problems studied. The method in this research is normative juridical research which focuses on the type of legal research that examines rules or norms. As a normative legal research, the emphasis of the research is on library research to obtain secondary data. However, to enrich, complement and support the data obtained from the literature, an analysis of the decision is also carried out whether the law is for an *in-concretto* case.

This research is descriptive analytical aiming to describe completely, thoroughly, in depth the legal rules relevant to this study, and to carefully analyze the decision to postpone the payment of debt obligations of the Commercial Court at the Central Jakarta District Court Number 270/Pdt.Sus-PKPU/2019/PN.Niaga/Jkt.Pst related to legal efforts to fulfill the rights of workers/laborers

5. Results

5.1 The Position of Workers' Rights in View of the Manpower Act and Law of Bankruptcy and Debt Payment Obligations Postponement

The complexity of the limited liability company relationship often creates disputes between workers/labors and employers. It can be said that the limited liability company relationship dispute is only to minimize the problems that arise and will arise and their impacts. For this reason, a comprehensive, constructive, and fair employment law is needed. In the event of a dispute or conflict, each person is prohibited by law from acting individually or known as the principle of vigilantism (*eigenrichting*).[13]

What is meant by vigilantism is that if someone's rights have been violated by someone else, then someone whose rights have been violated is not allowed to force the other person to fulfil their rights, even though he really has that right, let alone has no right. Forced action with threats by individuals against their creditors so that the debt is paid off is outside the law.

When confronted with Article 156 paragraph (1) of the Manpower Law against Article 1 point 6 of the Bankruptcy Law & PKPU, regarding the substance of the fulfilment of the rights of workers/labors who must be given severance pay and/or gratuity for years of service and compensation in the event of termination of employment, there is an emphasis on the definition of company obligations expressed in terms of money as a result of agreements or laws as debt.[5]

Rights arise because of an agreement. An agreement is a legal relationship related to the assets of two people or which guarantees the right to one party to fulfil achievements. In the implementation of these obligations, there are important elements related to legal responsibility for the implementation of parties' obligations from property of parties who have obligations without paying attention to who has the obligation to fulfil these obligations.

In running it, the company will enter into an agreement with other parties to facilitate its business, one of which is with the workers/labors as the party that assists the entrepreneur based on the employment agreement. The work agreement is a

forming element; thus, without a work agreement, there is no working relationship. One of the rights that arise for workers/laborers in the work agreement is the right to receive a salary, allowances, and other rights including compensation money due to the termination of the employment relationship by the employer to the workers/labors. Payment of salaries, allowances, and other rights of workers/labors is an obligation for companies that are ordered by law. When a company goes into bankruptcy or is in debt payment obligation postponement, the debtor is deemed not to have the ability to pay its debts to creditors, the company has the responsibility to fulfil the rights of the workers/labors in accordance with the Manpower Law.

Article 156 paragraph (2) of the Manpower Law states regarding the provisions for the period of service with the amount of severance received, in the provisions of this paragraph it is stipulated that the calculation of the severance pay as referred to in paragraph (1) is at least a period of less than 1 (one) year and get a severance pay of 1 (one) month of wages etc. until the service period is more than 9 (nine) years and get 9 (nine) months of wages. Article 156 paragraph (3) of the Manpower Law mentions the provisions regarding the calculation of the reward for the period of service; in this paragraph, it states that the workers/labours whose employment relationship is terminated has the right to receive the award with a minimum period of 3 (three) years or more in the amount of 2 (two) months of wages etc. until the working period is more than 25 (twenty five) years and getting 10 (ten) months of wages. Article 156 paragraph (4) of the Manpower Law explains the compensation money that should be received, which includes:

- annual leave that has not been taken and has not yet come off,
- the cost of returning home for the workers/labors and their family to the place where they are accepted to work,
- housing reimbursement as well as treatment and care are set at 15% (fifteen percent) of the severance pay and/or service pay for those who meet the requirements, and
- other matters stipulated in the work agreement, company regulations, or collective labor agreement.

Workers/labors are one of the parties who have the right to be paid for their rights that arise because the work agreement has the right to prioritize the payment of their receivables (privilege). Workers/labourers have special rights as regulated in Article 95 paragraph (4) of the Manpower Law, which essentially states that a company that is bankrupt on the basis of the prevailing laws and regulations, wages and other rights of workers/labourers are the company's debt that has priority in payment.

In addition, the position of the rights of workers/labors in bankruptcy is regulated in Article 39 of the Bankruptcy Law, which essentially states that the working relationship between workers/labors and debtors can be decided by the curator by means of approval or in accordance with the provisions of the applicable legislation. In particular, the wages of workers/labors which have not been paid before or after the bankruptcy declaration decision pronounced become bankrupt assets debt. From the article, it can be known that the rights of workers/labors are protected and given a fair legal guarantee. The provisions in that article have confirmed the position of the rights of workers/labors who do not only have the right to prioritize payments, but also the rights of the workers/labors that can be recognized as debts the debtors must fulfil.

5.2 The Supreme Court's Decision is Legally Binding as the Basis for Filing a Request for Debt Payment Obligation Postponement

An industrial relation dispute case that already has permanent legal force brings consequences in the form of rights and obligations that must be fulfilled. In this case, the workers/labors are determined to have the right to claim (debts/creditors) and the company has the obligation/debt (as debtors) to pay bills in accordance with the decision of the Supreme Court of the Republic of Indonesia Number 1073 K/Pdt.Sus-PHI/2018 dated November 30, 2018.[18]

Fulfilment of the payment of these receivables is pursued through a mechanism for delaying the obligation to pay debts as part of the bankruptcy law, which is legally valid, not contrary to the law. Regarding the legal considerations, the request for debt payment obligation postponement is an opportunity for the company as the debtor to seek payment of its debts in accordance with the provisions of Article 222 paragraph (3) concerning Bankruptcy & PKPU Law.

The workers/labors argue in their request that the Supreme Court's decision Number 1073 K/Pdt.Sus-PHI/2018 dated November 30, 2018 which has permanent legal force, meaning that both parties to the litigation are obliged to implement the contents of the decision. Because the contents of the decision require the defendant (company) to pay a sum of money in the amount of Rp247.075.200,00, the company must immediately pay its debts to the workers/labors.

The workers/labors base their application on Article 222 paragraph (3) of the Bankruptcy & PKPU Law which states "a creditor who estimates that the debtor cannot continue to pay the debts that are due and collectible may request the debtor given a postponement of the obligation to pay debts, to enable the debtor to submit a reconciliation plan which includes an offer to pay part or all of the debt to its creditors".

According to the workers/labors, if the request for debt payment obligation postponement is granted, the company will be really serious in submitting a peace proposal to restructure all its debts to all creditors including the workers/labourers.

Therefore, the company is considered by the workers/labors to be able to get back up and pay their debts.

The decision to postpone the obligation to pay debts cannot be submitted for any legal remedies in accordance with Article 235 paragraph (1) of the Bankruptcy & PKPU Law. In addition, the requirement to be declared in a state of debt payment obligation postponement as referred in Article 222 paragraph (1) of the Bankruptcy & PKPU Law is that the debtor has more than 1 (one) creditor and is estimated to not pay the debts that are due and can be collected.

From the formulation of these provisions, it is understood that in order to grant an application, it must first meet the following requirements.

Having 2 (two) or more creditors;

The debtor is estimated not to pay the debts;

The debt has matured and is collectible.

The application for the implementation of the decision of the Supreme Court Number 1073 K/Pdt.Sus-PHI/2018 dated November 30, 2018 has been made by the workers/labors through the Industrial Relations Court at the Central Jakarta District Court issued by Determination Number 68/2019.Eks Jo.Number 06/Pdt.SusPHI/2018/PHI/PN.Jkt.Pst and Number 1073 K/Pdt.Sus-PHI/2018, dated May 07 2019, which essentially summoned the parties to attend the incidental trial on Tuesday, May 21, 2019, in order to issue a warning (aanmaning) for the implementation of a decision that has permanent legal force .

As the Elucidation of Article 2 paragraph (1) of the Bankruptcy Law and PKPU, that what is meant by debts that have matured and can be collected are obligations to pay debts that is due, because it has been agreed upon, the acceleration of the collection time as agreed, imposition of sanctions or fines by the competent authority, or due to court decisions, arbitrators, or arbitral tribunals.[19]

According to the evidence submitted by the workers/labors, based on the Panel of Judges, it turned out that the request for debt payment obligation postponement was submitted by 3 (three) applicants acting as creditors according to the decision of the Supreme Court Number 1073 K/Pdt.Sus-PHI/2018 dated November 30, 2018. In addition, according to the Panel of Judges, the request for a debt payment obligation postponement has estimated that the company (the debtor) cannot continue to pay the debts due and collectible, thus, the debtor has reasoned to be given a debt payment obligation postponement in order to provide an opportunity for the debtor to seek payment of the debts including an offer to pay part or all of the debt to the creditors.

Because the application is submitted by 3 (three) applicants who act as creditors, the company has obligations to creditors which are more than one creditor. Thus, the request for debt payment obligation postponement submitted by the workers/labors has met the formal and material requirements, the Panel of Judges, regarding the application in case Number 270/Pdt.Sus-PKPU/2019/PN.Niaga/Jkt.Pst., is accepted.

6. Conclusion

The position of the workers/labours, whose employment relationship terminated entitled to severance pay and/or compensation for years of service and compensation in accordance with Article 156 paragraph (1) of the Manpower Law, are given special rights. In the Bankruptcy Law & PKPU Article 39, it also stipulates that the rights of workers/labors as a result of the termination of the employment relationship between workers/labors and debtors, particularly the wages of workers/labors who have not been paid before or after the bankruptcy declaration decision is pronounced, become bankrupt asset debts. The provisions in that article have confirmed the position of the rights of workers/labors who do not only have the right to prioritize payments, but also the rights of the workers/labors recognized as debts must be fulfilled by the debtor.

Legal considerations of the Panel of Judges of the Commercial Court at the Central Jakarta District Court, regarding the request for debt payment obligation postponement by workers/labors who were terminated in case Number 270/Pdt.Sus-PKPU/2019/PN.Niaga/Jkt.Pst between Abdul Hakim, et al against PT. Internusa Food, has properly considered the legal facts concerning the definition of debt, the debt is due, the existence of two or more creditors, and it can be estimated that the debtor cannot continue to pay the debt.

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