



Implementation of Debt Restructuring in Indonesia during the Enactment of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

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ARTICLE INFO

Keywords: Legal Implementation, Bankruptcy, Semi-Public Restructuring, Pre-Package Restructuring.

Received : 28, March

Revised : 20, April

Accepted: 25, May

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ABSTRACT

This research aims to determine and analyze the implementation of debt restructuring in Indonesia during the enactment of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. The research method in this writing is normative legal research using a statutory approach, case approach, historical approach, comparative approach and conceptual approach. The types of legal materials in this research are primary legal materials and secondary legal materials. The technique for collecting legal materials is carried out by conducting literature studies. Then the legal material analysis technique is deductive using the deduction method. The results of the research in this paper are that the implementation of Law No. 37 of 2004 concerning Bankruptcy and Postponement of Payment Obligations is currently felt to not provide sufficient protection to debtors with good intentions.

INTRODUCTION

Worldwide financial improvements have an impact not as it were on the world of financial matters and venture, but too connect with lawful improvements, particularly financial law. One zone of financial law that's too experiencing changes in an exertion to oblige the improvement of cutting edge trade exchange hones is Liquidation law and Delay of Commitments and Obligation Installments (PKPU). Controls with respect to insolvency law in different nations, counting Indonesia, tend to alter. For example in Europe, within the final few decades European nations have contended that the existing insolvency legal framework has not been able to supply distant better;a much better;a higher;a stronger;an improved">a higher financial plot than a liquidation conspire so that changes within the substance of insolvency have happened in nearly all European Union nations. In substance and structure, in spite of the fact that the approaches related to insolvency in each European Union nation appear a few contrasts, the lion's share of these approaches have an accentuation on corporate protect methods, as an elective to liquidation methods. The strategies for insolvency and suspension of obligations used by most European Union nations allude to Chapter 11 of the Joined together States Insolvency Code.

In reacting to world financial challenges, Indonesia is additionally taking remedial steps related to Insolvency law and Delay of Commitments and Obligation Installments (PKPU). Advancements in laws and controls related to insolvency started in 1998 with the issuance of Government Control in Lieu of Law Number 1 of 1998 concerning Amendments to the Liquidation Law and Delay of Commitments and Obligation Installments (PKPU). This control was born when Indonesia was hit by a money related emergency in 1998 which come about in a number of national and multinational companies in Indonesia going bankrupt. At that point in 2004, as a refinement of the substance of the past liquidation directions and to reply to the requirements and legitimate improvements of society, Law Number 37 of 2004 concerning Insolvency and Suspension of Obligation Installment Commitments was ordered.

After the issuance of Law Number 37 of 2004 concerning Insolvency and Suspension of Obligation Installment Commitments (PKPU) and was in impact for 20 (twenty) a long time, rebuilding in Indonesia was frequently sought after utilizing Insolvency and PKPU courses, but numerous business people and specialists complained around the substance of Law Number 37 of 2004 concerning Insolvency and Suspension of Obligation Installment Commitments (PKPU) experienced a few issues related to the provisions of the standards contained in that which were considered helpless to manhandle which might hurt indebted individuals and leasers in association with insolvency determination and PKPU. Liquidation could be a flay in trade determination since it is exceptionally simple to force a insolvency instrument based only on straightforward prove with a component that is not important to the lawful guideline of opportunity of judges in general to survey cases, the time outline within the arrangements of Law Number 37 of 2004 concerning Liquidation and Delay of Debt Installment Commitments (PKPU) permits for a moderately long time span in resolving a bankruptcy case and PKPU, as a result of which

numerous solid companies can gotten to be bankrupt and really harm creditors in common and indebted individuals who run their companies which have good dissolvability really endure misfortunes due to the bankruptcy system within the Insolvency Law and PKPU still has shortcomings within the legitimate framework and insolvency executing educate. Law Number 37 of 2004 concerning Liquidation and Delay of Obligation Installment Commitments appears to be a murdering machine for relatives.

THEORETICAL REVIEW

Restructurisation

With expansive trade capital as an operational premise, it isn't exceptional for trade on-screen characters to be constrained to require on obligation to keep the trade wheels turning. Chance emerges when obligation installment commitments are not met, possibly causing the company to come up short to pay existing obligations. As a reaction to this issue, obligation rebuilding emerged as a significant arrangement. Obligation rebuilding may be a key step taken by a company to resolve potential or genuine debate related to obligation, both continuous in court and exterior of court. This step includes both parties, the indebted person (the company that owes the obligation) and the leaser (the party that gives the advance), in planning "organized rebuilding" steps.

Concurring to David F, rebuilding, regularly alluded to as scaling back or delayering, involves diminishing the company's workforce, work units or divisions, or lessening position levels within the company's organizational structure. Decreasing the company's scale is essential to progress effectiveness and adequacy. Restructuring strategies are utilized to discover a way out for companies that are not developing, are wiped out or there's a danger to the organization, or an industry that's on the skirt of critical alter. Proprietors for the most part make changes within the administration unit group, changes in technique, or the presentation of modern technology in the company. Usually regularly taken after by acquisitions to construct basic parts, offering superfluous parts, to effectively reduce securing costs. The result may be a solid company, or an mechanical change. Understanding that the extreme objective of debt restructuring is common advantage for indebted individuals and lenders, it is critical for both parties to commit to the rebuilding assention. Companies tend to advantage from this rebuilding, since they can apportion assets to operations and progress monetary execution. Be that as it may, the rebuilding assention has to be realized through a formal understanding to guarantee maintainability and lawfulness.

Creditors' Bargain Theory

Creditors' Deal Hypothesis also known as leaser riches maximization could be a hypothetical premise that has an impact on liquidation law. This hypothesis was first started by Thomas H. Jackson in the early 1980s and was followed by Roberts E. Scott and Douglas G. Baird. The deal hypothesis was born as a reply to the common pool issue caused by the treachery of the hone of the

guideline of lender need (obligation collective framework). Leaser need rights are based on the rule of who gets what from a bankrupt indebted person and are an exemplification of the guideline of distributive equity (*sum cuique tribuere*). Jackson accepts that this framework as it were benefits indebted individuals. In this manner, leasers who are not forceful or fall flat to execute rapidly on their debtor's resources will bear the hazard of not getting installment. This condition is called the common pool problem or get race or bank run issue which is the main reason for the birth of the creditors' deal hypothesis. (Kenneth M. Ayyotte, David A. Skeel Jr, 2013). Concurring to Kenneth and David, the Creditor's Deal Hypothesis has two important components. The most and most critical component is the guideline of effectiveness, to be specific the most important point of insolvency is to increment the securing esteem of insolvency resources to reestablish the situation of debtors and leasers. One of the foremost successful ways to anticipate common political issues is by having an automatic remain component within the Insolvency Law which by law briefly suspends the execution of bank need rights when the indebted person is recorded for liquidation (T.H. Jackson, 1986).

The Concept of Pancasila Justice Values

The Pancasila philosophy is the result of the deepest thoughts or thoughts of the Indonesian people which the Indonesian people consider, trust and believe to be something (reality, norms, values) that is the truest, fairest, wisest, best. and is most suitable for the Indonesian people.² Pancasila as the basis of the state is often called the basis of state philosophy (*phylosofiche grondslag*) of the state, state ideology (*stateside*). In this case, Pancasila is used as the basis for regulating state government, in other words, Pancasila is used as the basis for regulating state administration. Pancasila as the Foundation of the State. The definition of Pancasila as the basis of the State as intended is in accordance with the Preamble to the 1945 Constitution, Paragraph IV, which clearly states that Pancasila is the basic or fundamental norm of the Unitary State of the Republic of Indonesia. As the basis of the state, Pancasila is used to regulate the entire life structure of the Indonesian nation and state, art This means that everything related to the implementation of the constitutional system of the Unitary State of the Republic of Indonesia must be based on Pancasila. This also means that all regulations in force in the Republic of Indonesia must be based on Pancasila.

Pancasila has a flexible character or nature and is able to meet the demands of the times in following the globalization of changing times. In discussing justice issues that arise in society, Pancasila is able to provide answers to these problems. Pancasila is able to provide the values of justice as legal reform in Indonesia. Legal reform in Indonesia is very necessary because there are still many new problems that cannot be covered by law. These problems should be resolved with one vision, mission, goals and perception of Pancasila in carrying out legal reform in Indonesia. Apart from new problems that have not been resolved, old problems are also problems that are considered urgent to be

resolved immediately, considering that the law is always present in people's lives to provide certainty, justice, and benefits (Ferry Irawan F, 2017)

Justice Theory

The issue of justice is not a problem that has only been discussed by experts, but discussions about justice have started since Aristotle until now. Each expert has a different view of the essence of justice. The theory that studies and analyzes justice from Aristotle to the present is called the theory of justice. The theory of justice in English is called theory of justice, while in Dutch it is called theory van rechtvaardigheid consisting of two words, namely:

1. theory; And
2. justice.

Aristotle divided justice into two types, namely justice in the general sense; and justice in a special sense. Justice in the general sense is justice that applies to everyone. Do not differentiate between one person and another. Justice for all. Justice in a special sense is justice that applies only to certain people. Aristotle also put forward two concepts of justice, namely distributive justice and corrective justice. Distributive justice is carried out in the distribution of honor, prosperity, and other divisible assets of a community that can be allocated among its members equally or unevenly by legislators. The principle of distributive justice is proportional equality. Corrective justice is justice that provides corrective principles in private transactions. Corrective justice is carried out by judges in resolving disputes and giving punishment to perpetrators of crimes. Aristotle views justice from law and equality.

Economic Analysis of Law Theory

Law and Financial matters or for the most part called Financial Investigation of Law was at first obscure and had not been created. This can be since it exists as an item of the combination of logical skylines between legitimate science and financial matters. It is said that law and financial matters are not categorized as part of the lawful teach and so don't have scholarly acknowledgment. One of the reasons for the slowed-down advancement of Law and Financial matters was the improvement of legitimate science (statute), which at that time still rotated around the center lessons of lawful certainty (legitimate certainty or assortment) and equity (equity or iustitia). Indeed presently, the advancement of law and lawful considers appears to still rotate around these two center lessons. The figure in financial examination of law is Richard Posner, who employments a financial matters approach based on three standards, specifically esteem, advantage, and productivity. Posner's financial examination was at that point created by Robert Cooter and Thomas Ullen, with the standards of maximization, adjust, and effectiveness (maximalization, balance, and proficiency) of law (Romli Atmasasmita, 2012). Richard Posner states that productive law is the assignment of obligations between individuals included in association exercises in such a way as to maximize joint esteem, or a few sum of it for the same thing, minimizing the costs of the joint movement. Proficient law

requirement is based on the quality of control of a handle (quality control evaluation) and not exclusively on viability which centers exclusively on amount. Focusing on law requirements will as it were make predisposition within the nation-building process and will indeed tend to be counterproductive and can provide rise to open lies.

METHODOLOGY

Legal research can be said to be a form of process in looking at the laws that exist in society. Morris L. Cohen also stated this in (Peter Mahmud, 2019). Legal Research is the process of discovering the laws that regulate activities in human society. Therefore, it is necessary to have a certain research method. The research in this article has a normative nature. Normative research intends to examine sources originating from secondary legal materials with legal materials in statutory regulations, literature, and other legal documents. Apart from that, this research will also use several approaches, such as the statutory approach, case approach, historical approach, comparative approach, and conceptual approach used to analyze the implementation of bankruptcy law in Indonesia.

RESEARCH RESULTS

Liquidation or liquidation is an occasion that can happen to anybody, from people to lawful substances. Liquidation too does not recognize the wealthy or destitute. A extremely rich person or multinational company can too encounter indebtedness or liquidation. Insolvency has ended up a fundamental portion of society, touching the lives of nearly everybody. In agreement with the saying *ibi ius, ibi society*, liquidation law is really connected to all lawful subjects, specifically people and legitimate substances (Louis Edward Levinthal, 1918). Diverse from other legitimate sciences, such as criminal or respectful law, insolvency law is classified as an interesting and exceptionally complex law. This uniqueness is made since the advanced liquidation law that we know nowadays is the result of the lawful joining of different lawful frameworks within the world.

History records that the advancement of cutting edge insolvency law as of now in drive is overwhelmingly impacted by the liquidation law of the Common Law and Respectful Law frameworks. In the meantime, the standards of insolvency law such as standard *conditio creditorium*, *pari pasu master rate (parte)*, equality creditorium, activity *paulina in personam*, *bonorum emptio*, *poximus decotoni*, and so on start from Old Rome. The presence of the standards of Ancient Roman law within the present day insolvency law that we know nowadays is verification that liquidation law was built on the standards of Old Roman law, whereas present day liquidation law was born and created as a result of the merging of 2 (two) respectful law frameworks. Law and Common Law. The history of insolvency enactment in Indonesia started nearly 100 a long time back in 1906, since the sanctioning of "*Verordening op het Faillissement en Surceance van Betaling voor de Europe in Indonesia*" as distributed in *Staatblads 1905 No. 217 jo. Staadblads 1906 No. 348 Fallissement verordening*. Within the 1960s and 1970s, moderately numerous insolvency cases were still submitted to Locale Courts all through Indonesia, but since the 1980s, nearly no liquidation

cases have been submitted to the Commercial Court. In 1997, the money related emergency hit Indonesia, numerous obligations were not paid in full indeed in spite of the fact that they had been collected, so the thought emerged to create the liquidation process by making strides enactment within the field of insolvency and delaying obligation installment commitments or more often than not truncated as PKPU. Right now the legitimate premise for liquidation and PKPU in Indonesia is Law Number 37 of 2004 concerning Insolvency and Delay of Debt Installment Commitments (hereinafter alluded to as UUK-PKPU).

In line with the requests of the trading world which needs productivity, liquidation, which was initially the as it were implies to settling obligation installments collectively by exchanging the debtor's resources, is beginning to be supplanted by other more compassionate efforts (debtor firendly) that don't murder the debtor's commerce or economy, to be specific by carrying out obligation reorganization. In this time, the concept of insolvency which was practiced in Antiquated Roman times, known as cession bonorum and bonorum ditractio, was embraced to resolve obligation installments in a more compassionate manner. Ancient insolvency law created concurring to wants of the world of commerce and was outlined concurring to wants of each legitimate subject, giving birth to cutting-edge liquidation law particularly for people (insolvency law) and insolvency particularly for legitimate substances (indebtedness law).

Ideally, bankruptcy law does not solely aim to respond to collective debt payment problems or to resolve financial difficulties, but the main aim of bankruptcy law is to restore the debtor's financial situation. Bankruptcy law is a modern law that provides justice (equity) and balance (balance) not only to debtors who are experiencing financial difficulties and to their creditors, but also to people who are affected by the financial difficulties experienced by debtors. This is in line with the principles of Aristotle's justice which views the law as for honor, prosperity, and equality. The common thread of the objectives of modern bankruptcy law is that bankruptcy law is no longer focused on protecting the interests of creditors but is also designed to give debtors the opportunity to rise from the economic or financial downturn they are facing or have a fresh start. If we refer to the characteristics of modern bankruptcy law, it turns out that the Bankruptcy Law and PKPU that apply in Indonesia cannot yet be classified as modern bankruptcy law. This is firstly illustrated by the absence of an insolvent condition requirement for a debtor to be declared bankrupt. On the other hand, the state of insolvency is only relevant after the debtor is declared bankrupt, because the state of insolvency is used as a condition for liquidating bankruptcy assets.

The Bankruptcy Law and PKPU in Indonesia fundamentally regulate the universalist theory of bankruptcy which is adopted from Articles 1131 and 1132 of the Civil Code which regulate payments on a *pari passu* or *pro rata parte* basis. The principle of collective execution is contained in Article 21, Article 59, Articles 178 and 187 of the Bankruptcy Law and PKPU which regulates that all debtor assets are subject to general confiscation of bankrupt debtor assets by the

Commercial Court. Collective execution or general confiscation of assets of bankrupt debtors is not excluded from debtor assets which have the status of collateral for debts, even though Article 55 of the Bankruptcy Law and PKPU clearly states that creditors hold security rights over objects (pawns, mortgages, fiduciary guarantees, mortgages and other rights). other dependents) can execute their rights as if the bankruptcy had not occurred.

The theory of creditors' bargaining has a large place in the Bankruptcy Law and PKPU. This can be seen from the procedure for determining the replacement of the curator, the procedure for continuing or terminating the bankruptcy debtor's business activities, the debt verification procedure, and the procedure for submitting a peace scheme. The theory of creditors' bargaining is accumulated in several provisions of the Bankruptcy Law and PKPU which give several authorities to concurrent creditors that separatist creditors do not have. For example, to determine whether bankruptcy ends with liquidation or accepting reconciliation (debt reorganization), an agreement to replace or add a curator, an agreement to continue or stop the debtor's business after an insolvency situation occurs. If we look back at the history of the formation of the Bankruptcy Law and PKPU along with the political background and international pressure that occurred at that time, of course we wonder why the Bankruptcy Law and PKPU did not make insolvency a condition for filing a bankruptcy application. This question was answered by Ginandjar Kartasasmita, who at that time served as Minister of Finance, Economy and Industry. According to him at that time, the government in principle wanted private debt to be resolved through negotiations between creditors and debtors, in other words the government wanted debtors' financial difficulties not to be resolved through bankruptcy, but through debt restructuring. The government policy is reflected in 2 (two) articles, namely:

- 1) Article 2 paragraph (1) of the Bankruptcy Law and PKPU which only regulates the factual condition of debtors who have more than two creditors who do not pay in full at least 1 (one) debt that is due. The provisions of this article do not constitute a state of insolvency or inability to pay.
- 2) Article 178 of the Bankruptcy Law and the new PKPU started to give rise to the term "bankruptcy assets are in a state of insolvency" after the debtor was declared bankrupt, because negotiations to settle debt payments amicably between the debtor and creditor were not achieved.

The Bankruptcy Law and PKPU adhere to the special principles of business continuity as stated in Article 104, Article 179 paragraph (1) in conjunction with Article 180, Article 181, and Article 183 of the Bankruptcy Law and PKPU. These articles regulate the curator's authority to continue the debtor's business even though it has been declared bankrupt and the creditors' right to decide that the bankrupt debtor's business will continue to operate even though the bankrupt assets have become insolvent, in other words the continuity of the bankrupt debtor's business and the bankrupt assets have been decided based on agreement between concurrent creditors.

Apart from not including the state of insolvency as the first and foremost condition for bankruptcy, the policy of the government and legislators who want debt settlement to be resolved through negotiations or amicably is not accompanied by provisions for providing a fresh start to debtors. The Bankruptcy Law and PKPU look like the old and ancient faces of the polished *Faillissements Verordenen* and *Illissements Verordenen*. Meanwhile, classical bankruptcy law has long been abandoned by developed countries. The Bankruptcy Law and PKPU only function as a debt poll balaka. This function and purpose is first reflected in the provisions that apply the Bankruptcy Law and PKPU to all legal subjects, persons and legal entities. In fact, one of the characteristics of modern bankruptcy law is that there are bankruptcy laws designed for the special needs of individuals and special bankruptcy laws for legal entities.

The theory of creditors' bargaining is very clear and influences the Bankruptcy Law and PKPU in Indonesia, especially in relation to the interests of concurrent creditors. The majority vote of concurrent creditors determines whether the bankruptcy estate ends with the liquidation of the debtor's assets. Concurrent creditors who have sufficient voting rights reject the peace offered by the debtor, so payment of the debtor's debt will be achieved by liquidating the bankruptcy estate. Another example of the power of concurrent creditors is as regulated in Article 151 in conjunction with Article 178 paragraph (1) of the Bankruptcy Law and PKPU. The peace scheme arrangements regulated in Articles 144 to 171 of the Bankruptcy Law and PKPU illustrate how bargaining or agreements between concurrent creditors greatly determine the fate of bankruptcy assets. The question arises whether the concept of business continuity for a bankrupt debtor as regulated in the Bankruptcy Law and PKPU has the same meaning as the term going concern which applies in daily business practice? If we review the provisions regulated in Article 104, Article 179 paragraph (1) in conjunction with Article 180, Article 181 and Article 183 of the Bankruptcy Law and PKPU, they do not at all mention or require that the concurrent creditor's decision to carry on the business of the bankrupt debtor who has become insolvent must be based on the opinion of an accountant who assesses that the bankrupt debtor's business is still suitable to be continued or is a going concern. Going concern opinion can be used as a reference to measure the level of solvency of a company. Going concern value is the economic and financial condition of a company in operating condition, to assess whether a company experiencing financial difficulties still has going concern status. The debtor's financial ratio used as an assessment is as follows:

- 1) Liquidity Ratios provide information regarding the company's ability to meet the company's short-term financial obligations;
- 2) The solvency ratio measures the company's ability to meet long-term financial obligations;
- 3) Profitability ratios are used to measure a company's performance in generating profits from its resources;

- 4) The company's leverage ratio is an indicator of the risks that the company may take in order to generate profits.

Based on the depictions over, it is evident that from the viewpoint of a financial matters approach, the state of indebtedness isn't simply measured by the comparison of resources and liabilities of indebted individuals, but can too be anticipated from the prospects for commerce progression (going concern). The term going concern in Indonesian liquidation law alludes to 2 (two) diverse things, specifically going concern as the commerce coherence of the bankrupt indebted person and going concern as the auditor's opinion. The term going concern as a concept within the Insolvency Law and PKPU could be a choice taken by the guardian and concurrent lenders to proceed the coherence of the debtor's trade which has been announced bankrupt and wiped out.

The Liquidation Law and PKPU follow to the going concern guideline, but going concern things are given over to the specialist of the keeper at the begin of the insolvency. Moreover, on the off chance that an insolvency situation happens, the concurrent lenders, based on their larger part vote, can propose that the bankrupt debtor's trade proceed to function. The Liquidation Law and PKPU too recognize as it were 3 (three) bunches of leasers who are entitled to insolvency resources whose installment is decided based on the sort of claim, specifically separatist leasers whose position is outside the liquidation of the indebted person, favored lenders who are advantaged in paying their bills based on law and concurrent banks who are entitled to liquidation resources, besides the Liquidation Law and PKPU deliver banks the correct to choose whether a claim can be acknowledged or rejected at a obligation confirmation assembly. The reason of this arrangement is to channel out imaginary claims and mark-up charge values which is able burden the liquidation estate thereby reducing the rights of concurrent lenders. Not at all like liquidation laws in other countries, such as within the Joined together States. The Bankruptcy Law and PKPU don't point to supply a new beginning for debtors. This is often clearly illustrated by the insolvency strategy plot and PKPU methods controlled within the Insolvency Law and PKPU, all of which can conclude with the liquidation of the debtor's resources in the event that there's no neighborly obligation installment agreement between the debtor and lenders. The proposition to proceed the liquidation debtor's commerce as a going concern with the point of expanding the esteem of the insolvency resources is as it were a choice (an elective to expanding the esteem of the liquidation resources) and isn't the most objective of the Indonesian Insolvency Law and PKPU.

Judging from the arrangement of direction, the Insolvency Law and PKPU regulate bankruptcy or liquidation methods to begin with, at that point control the delay of obligation installment commitments (suspension of installment). This gives the impression that bankruptcy law in Indonesia still positions itself as an obligation collection method that exclusively points to exchange the resources of indebted individuals who are encountering monetary troubles to pay their obligations. In the interim, modern bankruptcy law places more accentuation on settling obligation installments through obligation reorganization or obligation rebuilding and giving a fresh start for indebted

individuals. The bankruptcy course is an ultimum cure or final resort to resolve debt payment troubles when reorganization or installment restructuring cannot be taken. Based on the quintessence of the Liquidation Law and PKPU, which does not point to delivering a new start to indebted individuals who have been announced bankrupt, the coherence of the bankrupt debtor's trade can proceed as long as there's endorsement from the lenders with the point of increasing the esteem of the bankrupt's resources

DISCUSSION

Based on the Development Law Theory, where dimensionally the Development Law Theory uses a frame of reference on the way of life of the Indonesian people and nation based on the familial principle of Pancasila, the norms, principles, institutions, and rules contained in the Development Law Theory are relatively is a dimension that includes structure, culture, and substance. Indonesian bankruptcy law needs to be reformed in order to provide better economic benefits. In bankruptcy cases, ideally bankruptcy is imposed on Debtors who are in an insolvent state, namely a situation where the Debtor is financially unable to pay part/all of its debts or the value of its assets and the assets are less than the value of the liabilities or liabilities. A Debtor cannot be said to be insolvent if he does not pay his debts to just one Creditor, while other Creditors continue to carry out their debt repayment obligations properly, unless one Creditor controls the majority of the Debtor's debts.

CONCLUSIONS AND RECOMMENDATIONS

It is currently felt that the implementation of Law No. 37 of 2004 concerning Bankruptcy and Postponement of Payment Obligations does not provide sufficient protection for debtors with good intentions. This opinion can be accepted because currently there is a tendency to interpret bankruptcy as the same as liquidation. Even the absence of an insolvency requirement for a debtor to be declared bankrupt is very vulnerable to abuse by debtors and creditors who do not have good intentions. In fact, it must be understood that bankruptcy should also be a means of reorganizing a company. Therefore, the regulation of bankruptcy requirements in the KPKPU Law needs to be changed by formulating the use of a test to measure payment ability through an insolvency test. The use of this test will have the impact of increasing time in the bankruptcy resolution process because there will be parties calculating the company's books, causing additional costs due to checking the company's books first.

ADVANCED RESEARCH

In writing this article the researcher realized that there were still many shortcomings in terms of language, writing and form of presentation considering the limitations of the researcher's own knowledge and abilities. Therefore, for the sake of perfection of the article, researchers expect constructive criticism and suggestions from various parties

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