

The Management of Debtor's Assets Declared Bankrupt by the Commercial Court

Jamillah¹, Maswandi², Bambang Lesmono³

^{1,2}Faculty of Law, Universitas Medan Area, Indonesia

³Postgraduate Program in Universitas Islam Negeri Sumatera Utara, Indonesia

maswandi128@gmail.com

Abstract

This study deals with the management of debtor's assets declared bankrupt by the commercial court. The establishment of the Commercial Court is a differentiation step (specialization) of the general court made possible by Law no. 14 in 1970 Jo. UU no. 35 of 1999 Jo. UU no. 4 of 2004 concerning the Justice Law and the establishment of this Commercial Court is the separation of jurisdiction to examine bankruptcy applications from the District Court to the Court Commerce. The result shows that the arrangement and management of the assets of the Debtor after being declared bankrupt by the Commercial Court, the bankrupt Debtor does not have the right to manage and settle all of his assets, and the management and settlement of all the assets of the Debtor will be resolved by the Supervisory Judge, Curator and Creditors Committee, each of whom has different duties, the supervisory judge has the duty to supervise all actions taken by the curator.

Keywords

debtor's assets, bankrupt,
commercial court



I. Introduction

The term bankruptcy often feels familiar to some people, even though this term is often used in the business and business world. So what is meant by bankruptcy? Bankruptcy is a process of resolving business disputes through litigation, namely through a commercial court. Bankruptcy is regulated in Law Number 37 Year 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations or abbreviated as UUK 2004. Prior to the promulgation of UUK 2004, bankruptcy issues were regulated in Staatsblad 1905: 217 jo. Staatsblad 1906: 348 concerning Faillissement Verordening (Law on Bankruptcy) which was later updated through a Government Regulation in Lieu of Law Number 1 Year 1998 and later passed into Law Number 4 Year 1998.

According to article 1 number 1 UUK 2004, Bankruptcy is general confiscation of all assets of a Bankrupt Debtor whose management and settlement is carried out by the Curator under the supervision of the Supervisory Judge as regulated in this Law. Based on this definition, it can be concluded that the essence of bankruptcy is general confiscation (beslaag) of the assets of the bankrupt debtor.

Then what are the requirements so that a debtor can be submitted as a bankrupt debtor? In applying for a bankruptcy statement, there are several conditions that must be met first. The requirements for filing a bankruptcy statement are described in article 2 paragraph (1) of the 2004 UUK which reads:

"A debtor who has two or more creditors and does not pay off at least one debt which is due and can be collected, is declared bankrupt by a court decision, either at his own request or at the request of one or more creditors".

From this article, it can be seen that the requirements for submitting a debtor as a bankrupt debtor are:

1. The debtor has two or more creditors;
2. The debtor has not paid at least one debt that is past due and can be collected.

II. Review of Literatures

2.1 Scope of the Commercial Court

The existence of the Commercial Court in bankruptcy cases has actually been introduced not since the enactment of the UUKPKPU, but this Commercial Court has just appeared in PERPU No. 1 of 1998 Jo. UU no. 4 of 1998 concerning the Bankruptcy Law, in which Article 280 paragraph (1) of the UUK states that the Commercial Court is within the General Court, p.wherein line with Article 8 of Law No. 2 of 1986 as amended by law–Law No. 8 of 2004 concerning Amendments to Law No. 2 of 1986 states:

"In the General Court, there can be specializations regulated in Constitution"

Meanwhile, the existence of the General Court itself has been regulated in Article 10 of Law no. 14 in 1970 Jo. UU no. 35 of 1999 Jo. UU no. 4 of 2004 concerning Judicial Power, which divides the powers of the judiciary into 4 (four) areas of judicial power, each of which has a sphere of authority to judge certain and include the judiciary bodies of first instance and level of appeal, that power includes:

- a. General Justice Environment.
- b. Environment of Religious Courts.
- c. Military Justice Environment, and
- d. State Administrative Court Environment.

Then in the explanation of Article 10 of Law no. 14 of 1970 is also mentioned that:

"The differences in these four judicial environments, does not rule out the possibility of specialization (differentiation / specialization) in each environment, for example in the General Court specialization can be held in the form of a Traffic Court, Juvenile Court, Economic Court, and so on with the Law Invite".

If this is the case, it means that the establishment of the Commercial Court is a differentiation step (specialization) of the general court made possible by Law no. 14 in 1970 Jo. UU no. 35 of 1999 Jo. UU no. 4 of 2004 concerning the Justice Law and the establishment of this Commercial Court is the separation of jurisdiction to examine bankruptcy applications from the District Court to the Court Commerce.

It was only later that after the UUK was replaced by the issuance of the UUKPKPU which was promulgated on 18 October 2004, this Commercial Court was confirmed again in Article 1 paragraph 7 Jo. Article 300 paragraph (1) UUKPKPU states, that:

Court is a Commercial Court within the General Court Environment and Court as referred to in this Law, apart from examining and deciding applications for bankruptcy and Postponement of Debt Payment Obligations, it is also authorized to examine and decide other cases in the commercial sector which are stipulated by law.

From the purpose of Article 1 paragraph (7) Jo. Article 300 paragraph (1) UUKPKPU can be seen that the scope of the Commercial Court is:

1. Application for a bankruptcy statement.
2. Postponement of Debt Payment Obligations (PKPU), and
3. Other cases specified in law.

Regarding bankruptcy and PKPU cases, of course there is no need to mention it, because it has been and is currently under discussion, but other cases determined by law can be seen from other cases, for example:

1. Intellectual Property Rights (HAKI) cases, including for industrial designs are regulated in Law No. 31 of 2000, in this law it is explained that the right holder / recipient of an Industrial Design license is entitled to file a lawsuit against any party who uses an Industrial Design without rights, dispute resolution can be submitted to the Commercial Court (Article 38 of this law).
2. Meanwhile, the Integrated Circuit Layout Design (DTLST) is regulated in the Law–Law No. 32 of 2000, in which this law states, the holder right DTLST licensee has the right to file a lawsuit for compensation against any party who uses the DTLST license without rights, the settlement of this dispute can be submitted to the Commercial Court (Article 46 of this law).
3. Then the Patent issue regulated in Law No. 14 of 2001, this law states that the holder / recipient of a Patent license has the right to file a claim for compensation against any party who uses a patent without rights, dispute resolution can be submitted to the Commercial Court (Article 117 of this law).
4. Likewise, Marks have been regulated in Law No. 15 of 2001, and in this law it is stated that the holder / recipient of a Mark license has the right to file a claim for compensation against any party who uses a Mark without rights, dispute resolution can be submitted to the Commercial Court (Article 76 of this law).
5. Then for Copyright which has been regulated in Law No. 19 of 2002, and in this law it is stated that the holder / recipient of a Copyright license is entitled file claim for compensation to any party who uses Copyright without rights, dispute resolution can be submitted to the commercial court (article 55 of this law).

Then in article 300 paragraph (2) UUKPKPU Jo. Article 281 paragraph (2) UUK, states that:

(2) The establishment of the court as referred to in paragraph (1) shall be carried out in stages by means of a Presidential Decree, taking into account the needs and readiness of the necessary resources.

Considering that the contents of the article by article UUKPKPU are not much different from the Perpu No. 4 of 1998 which is strengthened by Law no. 1 of 1998 concerning the Bankruptcy Law (UUK), for the first time with this UUK, a Commercial Court was formed at the Central Jakarta Commercial Court, so the Central Jakarta Commercial Court was formed by law (Article 281 paragraph (4) UUK), while The establishment of another Commercial Court refers to the Presidential Decree (Article 281 paragraph (2) UUK Jo. 300 paragraph (2) UUKPKPU).

Not long after the Commercial Court operated at the Central Jakarta District Court, the Presidential Decree No. 97 of 1999, dated 8 August 1999 concerning the Establishment of the Commercial Court, at the Medan District Court, the Surabaya District Court, the Ujung Pandang District Court and the Semarang District Court which was then continued by holding training and appointing a number of District Court judges to become Commercial Court judges.

Until now, it turns out that the number of Commercial Courts in the territory of Indonesia is only 5 (five), and with the formation of the 5 (five) Commercial Courts, the division of jurisdiction for cases submitted to the Commercial Court, the division of jurisdictions for cases cases submitted to the Commercial Court are as follows:

1. The jurisdiction of the Commercial Court at the Ujung Pandang District Court covers the provinces of South Sulawesi, Southeast Sulawesi, Central Sulawesi, North Sulawesi, Maluku, and Irian Jaya.
2. The jurisdiction of the Commercial Court at the Medan District Court covers the provinces of North Sumatra, Riau, West Sumatra, Bengkulu, Jambi and the Special Region of Aceh.
3. The jurisdiction of the Commercial Court at the Surabaya District Court covers the provinces of East Java, South Kalimantan, Central Kalimantan, East Kalimantan, Bali, West Nusa Tenggara, East Nusa Tenggara and East Timor.
4. The jurisdiction of the Commercial Court at the Semarang District Court covers the provinces of Central Java and Yogyakarta Special Region.

It turns out that in practice each of the Commercial Courts mentioned above has an unbalanced case intensity, the Medan Commercial Court alone is still handling one case concerning bankruptcy, namely in case Number: 001 / PAILIT / 2003 / PN.NIAGA / Mdn, which was decided on April 3, 2003.

Before the issuance of Presidential Decree No. 97 of 1999, all bankruptcy cases and other cases were resolved by the Commercial Court at the Central Jakarta District Court, so with the issuance of Presidential Decree No. 97 of 1999 at the same time reduced the area of jurisdiction of the Commercial Court at the Central Jakarta District Court to only cover the areas of the Special Capital Region of Jakarta, West Java Province, South Sumatra, Lampung, and West Kalimantan.

This Commercial Court is a court of first instance, whose decisions cannot be appealed, except for cassation and reconsideration, and in principle the examination of cases concerning bankruptcy and PKPU must be conducted with Panel Judges (Article 301 paragraph (1) UUKPKPU), while specifically relating to cases in the field of commerce, the Chief Justice of the Supreme Court can determine the type and value of cases that a single judge is examined and decided upon by a single judge (Article 301 paragraph (2) UUKPKPU), this means that examination of bankruptcy and PKPU cases cannot be carried out by a single judge, however, the examination of other cases in the trade sector can be carried out with a single judge and a panel judge according to the type and value of the case, and the most important thing is in carrying out their duties, Judges at the Commercial Court will only be assisted by a Registrar or a Substitute Registrar and Bailiff (Article 301 paragraph (3) UUKPKPU).

There is a slight difference between General Court judges in general and Commercial Court judges in terms of their appointment, where the appointment of Commercial Court judges is not carried out by the Minister of Justice, but is carried out based on a Supreme Court Decree who is a permanent judge (article 302 paragraph (1) UUKPKPU), and can be appointed as permanent judge and must meet the requirements (Article 302 paragraph (2) UUKPKPU), namely:

1. Has experience as a judge in the General Court.
2. Have dedication and knowledge in the areas of the Commercial Court's jurisdiction.
3. Authoritative, honest, fair and behave beyond reproach, and
4. Has successfully completed a special training program as a judge at the Commercial Court.

However, UUKPKPU has provided a new breakthrough by allowing the appointment of Ad-Hoc judges, who are not career judges raised in the General Court, even though they are not career judges, an expert can also be appointed as an Ad-Hoc judge at the Commercial Court if he has fulfilled the requirements. the conditions as stated in points 2, 3 and 4, and the appointment of ad-hoc judges must be carried out by means of a presidential decree on the recommendation of the Supreme Court, so the appointment of ad-hoc judges is not based on a Supreme Court decision (Article 302 paragraph (3)) UUKPKPU).

2.2 Process and Procedure for Settlement of Bankruptcy Cases

In accordance with Article 299 UUKPKPU states that:

"Unless provided otherwise in this Law, the applicable procedural law is Civil Procedure Law"

If seen from the sound of the article above, this means that basically the civil procedural law that applies to the Commercial Court is none other than the civil procedural law that applies to courts within the General Court as contained in the *Herziene Indonesische Reglement (HIR)* or *Rechtsreglement voor de Bultengewesten (R.BG)*. Unless otherwise stipulated in UUKPKPU.

Implicitly, it can be said that the procedural law that applies to bankruptcy cases within the Commercial Court is the Civil Procedure Code of HIR / RBG (*lex generalis*) and the procedural law contained in UUKPKPU (*lex specialis*), as well as cassation examination and review of statement decisions. Bankruptcy or PKPU which of course is carried out according to the provisions of the applicable civil procedure law within the Supreme Court.

Meanwhile, it is necessary to explain some of the exceptions to this bankruptcy and PKPU case, when compared to the civil procedural law that applies to courts within the General Court, including:

1. The special court with authority is the Commercial Court.
2. Special judges who are permanent judges or ad-hoc judges.
3. The time period for the judicial process is limited, so inevitably the procedure is simpler and the proof is simpler.
4. A different and more definite timeframe for procedural actions, for example, the time frame for the announcement of bankruptcy, Creditors committee meetings and so on.
5. Nobody knows the appellate agency, but immediately appeal and review.
6. The parties filing a bankruptcy application have been determined.
7. There is an institution of Supervisory Judges, Curators, Creditor Committees, Managers and so on which are specifically mentioned for this.
8. There is a suspension of execution rights for certain debt guarantee rights holders.
9. The plaintiff must be represented by a lawyer who has a license to practice.

Considering that filing a bankruptcy application is given a short period of time and only requires simple proof, the parties as stipulated in Article 2 of the UUKPKPU have the right to submit an application for a bankruptcy statement addressed to the Commercial Court, these parties should pay close attention to these matters. anything that must be prepared, especially for the completeness of the required documents, for example a creditor who will apply for a bankruptcy statement must first prepare the following documents:

- a. The stamped application letter addressed to the Commercial Court concerned and the application letter for a bankruptcy statement is very simple, namely, containing:
 1. Identity of the applicant and the applicant's legal advisor (application is signed by the applicant's legal advisor).
 2. The form of debt and the amount of debt that is due and not paid and can be collected.
 3. Mention other creditors.
 4. The application has met the UUKPKPU.
 5. Please Confiscate Guarantee and temporary appointment of Curator.
 6. *Petitum*, which contains:
 - 1) Accept and grant the applicant's request.
 - 2) Declare that the Respondent is bankrupt.
 - 3) Appoint a Curator (specify the desired Curator).

- 4) Appoint Supervisory Judge to supervise the management and settlement of bankruptcy assets.
- b. Legalized imprisonment permit / attorney card.
- c. Special Power of Attorney.
- d. Registration certificate / foundation / association legalized (stamped) by the trade office no later than 1 (one) week before the application is registered.
- e. Debt agreement letter.
- f. Details of unpaid debt.
- g. Name and address of each creditor.
- h. Identification of Creditors.
- i. Name and address of business partners.

Of course, if the bankruptcy application submitted by the Debtor, the prepared documents are somewhat different from the documents prepared by the Creditors, the differences in these documents of course depend on the status and interests of the party who submitted the bankruptcy statement.

After these documents have been prepared in advance, according to Article 3 paragraph (1) UUKPKPU, it is stated that the decision on the application for a bankruptcy statement and other related matters as referred to in UUKPKPU, shall be determined by the Commercial Court, namely the Commercial Court whose jurisdiction covers the area where the Debtor's legal domicile is, so it is clear that the application for bankruptcy is submitted to the Commercial Court in the area where the Debtor is located.

The mechanism or process for filing a bankruptcy statement that applies at the Commercial Court as regulated by the UUKPKPU can be divided into 3 types, as follows:

I. Application Registration:

- a. The application for a bankruptcy statement and registration with the Court through the clerk of the District Court, then the applicant will be given a receipt that the application has been received (Article 6 paragraph (2)).
- b. Then, within a grace period not later than 2 (two) days from the receipt of the application for bankruptcy, the clerk must submit the bankruptcy application to the Chairman of the Court (Article 6 paragraph (4)).
- c. Then, within a period of not later than 3 (three) days from the receipt of the bankruptcy request from the clerk of the court, the Chairman of the Court must determine the medium day (Article 6 paragraph (5)).
- d. And by no later than 7 (seven) days before the trial begins, the bailiff must give the summons to the parties to be tried (Article 8 paragraph (2)).
- e. The examination hearing of the application for a declaration of bankruptcy must be carried out no later than 20 (twenty) days from registration or 25 (twenty five) days if there is sufficient reason for this. (Article 6 (paragraph (6) Jo. Article 6 paragraph (7)).
- f. The court decision regarding the application for bankruptcy must be pronounced within a grace period of not later than 60 (sixty) days from registration (Article 8 paragraph (5)).
- g. It is only after the verdict is pronounced that at the latest within 3 (three) days from the time the verdict is pronounced, the bailiff must submit a copy of the decision to the party filing the bankruptcy application, the Debtor, the Curator and the Supervisory Judge (Article 9).

II. Cassation Attempts:

- a. The application for cassation is submitted to the Registrar at the Commercial Court which stipulates the bankruptcy decision, no later than 8 (eight) days from the date the Commercial Court decision is stipulated, the Registrar then submits a written receipt to the applicant, according to the date of registration (Article 11 paragraph (2)).
- b. The applicant for cassation is obliged to submit a memorandum of cassation to the Registrar and a copy of the application for cassation, and a copy of the cassation memorandum to the cassation party, on the registration date (Article 12 paragraph (1)).
- c. Then the clerk is obliged to send a request for cassation and a memory for cassation to the caste party, no later than 2 x 24 hours after registration (Article 12 paragraph (2)).
- d. When submitting a counter-memorandum of cassation, the cassation party is obliged to submit a counter-cassation memorandum to the clerk and a copy of the cassation memorandum to the cassation applicant, no later than 7 (seven) days after the cassation party receives the cassation memory document, then the court clerk is obliged to submit the counter cassation memorandum to the cassation applicant. no later than 2 (two) days after receipt of the counter cassation memorandum (Article 12 paragraph (3)).
- e. The clerk of the court is obliged to submit an application for cassation, cassation memorandum and counter-appeal to the Supreme Court through the Supreme Court Clerk at the latest 14 (fourteen) days from the registration (Article 12 paragraph (4)).
- f. The Supreme Court studies the appeal for cassation and determines the day of the trial, within 2 x 24 hours from the time the appeal is received by the Supreme Court Clerk (Article 13 paragraph (1)).
- g. The cassation examination hearing is conducted no later than 20 (twenty) days from the date of registration (Article 13 paragraph (2)).
- h. The decision on cassation must be stipulated no later than 60 (sixty) days from the date of registration (Article 13 paragraph (3)).
- i. The Supreme Court is obliged to submit a copy of the cassation decision to the clerk at the Commercial Court no later than 3 x 24 hours after the decision is stipulated (Article 13 paragraph (6)).
- j. Then the bailiff is obliged to deliver the cassation decision to the cassation applicant, the respondent, the curator and the supervisory judge no later than 2 x 24 hours after the cassation decision is received (Article 13 paragraph (7)).

III. Legal Reconsideration Efforts (PK)

- a. A review based on the reason for the existence of new written evidence (novum) is submitted no later than 180 (one hundred and eighty) days from the date the decision filed by the PK (the decision of the Commercial Court or the decision of cassation) is legally binding (Article 296 paragraph (1)).
- b. The PK based on the reason that the Commercial Court has committed a serious error in the legal decision is filed no later than 30 (thirty) days after the Commercial Court decision is legally binding (Article 296 paragraph (2)).
- c. The application is submitted to the Registrar who then registers and gives a written receipt to the PK applicant and submits the PK application to the Supreme Court Clerk within 2 x 24 hours from registration (Article 296 paragraph (3), (4) and (5)).
- d. The PK applicant is obliged to submit the supporting evidence on which to apply for the PK to the Registrar and a copy of the PK application along with supporting evidence to the PK respondent, on the date of registration (Article 297 paragraph (1)).

- e. The clerk of the court also delivers a copy of the PK application and supporting evidence to the respondent, no later than 2 x 24 hours from registration (Article 297 paragraph (2)).
- f. Respondent PK can submit an answer within 10 (ten) days from registration, the Registrar is obliged to submit the answer within 12 (twelve) days of registration (Article 297 paragraph (3) and (4)).
- g. The Supreme Court will immediately examine and give a decision on the PK application, no later than 30 (thirty) days after the application is received by the Supreme Court Clerk (Article 298 paragraph (1)).
- h. The Supreme Court is obliged to submit a copy of the PK decision to the parties, no later than 32 (thirty two) days after the application is received by the Supreme Court Clerk (Article 298 paragraph (3)).

Bearing in mind that UUKPKPU is a civil procedural law of a nature *lex specialist* whereas the civil procedural law of HIR / RBG is *lex generalis*, so in the process of proceeding both at the Commercial Court at the first level and cassation and reviewing all applicable provisions are regulated in UUKPKPU, but if the provisions of UUKPKPU do not regulate it, then the provisions apply contained in HIR or RBG.

III. Discussion

Every person who submits a case to court, will definitely want his case to be granted according to his wishes, and what is more important is whether the case can be carried out immediately, as is the case with bankruptcy cases, UUKPKPU has determined that every bankruptcy case decided by the Commercial Court of course also determine how to carry out or implement a decision that has been made, which matter is clear from the sound of Article 8 paragraph (4) UUKPKPU has stated that every application for bankruptcy must be granted if there are facts or circumstances that are simply proven to have met the requirements of Article 2 paragraph (1), it can even be said that the decision of the Commercial Court at the first level can be implemented immediately even though there is still an appeal or review (*uitvoerbaar bij voorraad*), meaning that even if the decision has not has permanent legal force, but the decision can be implemented immediately by the curator, even though legal efforts are still being made in the form of cassation or review (Article 16 paragraph (1) UUKPKPU, this is what proves bankruptcy has an execution value.

Execution in bankruptcy cases is certainly different from execution in ordinary civil cases, where in ordinary cases execution must be filed again at the first level court, whereas in bankruptcy cases the execution is directly carried out by the curator, which difference is caused because in bankruptcy cases against parties as separatist creditors. , Preferred creditors and concurrent creditors, whereas in ordinary civil cases there are no such types of creditors.

As stipulated in Article 55 paragraph (1) UUKPKPU, explicitly states that each creditor who holds a pledge, fiduciary security, mortgage, mortgage and other property rights, can execute his rights as if there was no bankruptcy, this means law -The law expressly states that the bankruptcy declaration does not obstruct the implementation of the guarantee right as provided by law, but even so in accordance with Article 55 paragraph (2) UUKPKPU states that if their right to collect is a receivable which is receivables that are must be matched according to the provisions of Article 136 and Article 137, then execution can only be carried out if the claims or receivables have been matched, and the execution can only be used to collect the settlement of the recognized amount (from the matching) of the collection or receivables.

Indeed, although in principle bankruptcy does not prevent the execution of the guarantee right as stipulated in Article 55 paragraph (1) of the UUKPKPU, the separatist Creditors do not immediately implement it, because in accordance with Article 56 paragraph (1) UUKPKPU gives rights to curators. to postpone the execution (stay) for a maximum period of 90 (ninety) days from the date the bankruptcy decision is stipulated, with the aim of the possibility of achieving a settlement or to optimize bankruptcy assets or to enable the Curator to carry out his duties optimally.

This suspension right is deliberately given to the Curator so that the Curator can use or sell bankruptcy assets that are under the Curator's supervision in order to fulfill his obligations, this means that not only the interests of the Creditors are prioritized, but also so that the interests of the Debtor's business continuity are maintained, but even though Accordingly, against the suspension determined by this Curator, the separatist Creditors may take actions in the form of:

1. Submit a request to the Curator to lift the suspension or change the terms of the suspension.
2. If the Curator rejects the request, the creditor may submit a request for suspension or amendments to the terms of the suspension to the Supervisory Judge.
3. Against the verdict of the Supervisory Judge, the creditor who submitted the application, or the curator can file a challenge to the court.

Of course, the court decision is a decision that is final and binding for Creditors and Curators, and the court's decision cannot be filed for cassation or review.

Then in Article 59 paragraph (1) UUKPKPU states that the execution of guarantee rights by Creditors for existing guarantees must be carried out within a period of no later than 2 (two) months from the time the insolvency took place, and of course after the time as referred to in paragraph (1) earlier, the curator must demand that the collateral material be delivered for sale, without prejudice to the right of the right holder to obtain the proceeds from the sale of the collateral, except for the collateral right holder over the harvest, of course the creditor who executes the collateral material is obliged to report and account for all proceeds from the sale the guarantee to the Curator, and submit it to the Curator the remaining proceeds after deducting the amount of debt to be paid, interest and fees without privilege of privileged Creditors.

Separatist creditors who have collateral rights who have executed the guaranteed material are obliged to submit part of the proceeds from the sale of the property until the privileged amount is fulfilled, then if the proceeds from the sale of the guarantee are not sufficient to pay off the existing receivables, then the creditor holds the separatist collateral rights. May submit a claim for settlement of the shortfall from the bankruptcy assets as a concurrent creditor after he submits a debt matching request to the Curator.

IV. Conclusion

The conclusions can be drawn as follows: The arrangement and management of the assets of the Debtor after being declared bankrupt by the Commercial Court, the bankrupt Debtor does not have the right to manage and settle all of his assets, and the management and settlement of all the assets of the Debtor will be resolved by the Supervisory Judge, Curator and Creditors Committee, each of whom has different duties, the supervisory judge has the duty to supervise all actions taken by the curator. While the Curator can be said to be the power of the Debtor who is in charge of managing and resolving and clearing up all the assets of the Debtor, while the Creditors committee is tasked with providing advice to

the Curator when the Curator will carry out his duties, so the authorized institution as the key in solving the bankruptcy problem is Commercial Court.

Protection for Creditors against Debtor's assets that are declared bankrupt is divided into 3 (three) types, namely first. Separatist Creditors are Creditors who have property security rights, namely, mortgage, mortgage, mortgage, fiduciary and other material rights receive top priority, secondly preferred Creditors. Namely Creditors with special privileges and the third is concurrent Creditors, namely Creditors with rights that are divided equally (pro rata). This type of creditor distinguishes execution in bankruptcy cases from execution in ordinary civil cases.

The authority in resolving bankruptcy cases in Indonesia is the Commercial Court which is a distinction from the General Court, and until now in Indonesia it still has 5 (five) Commercial Courts, namely the Commercial Court at the Central Jakarta District Court, the Commercial Court at the District Court. Medan, the Commercial Court at the Ujung Pandang District Court, the Commercial Court at the Surabaya District Court and the Commercial Court at the Semarang District Court. Each of these Commercial Courts handles cases with uneven intensity, there may be Commercial Courts that handle many cases, while on the other hand there are still Commercial Courts that have never handled bankruptcy cases. One example is the Medan Commercial Court, which since 2000 to date has only handled 1 (one) bankruptcy case, namely the case Number: 01/PAILIT/2003/PN.Niaga /Mdn.

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