

## CURATOR'S RESPONSIBILITIES IN SETTLEMENT THE ASSETS OF THE BANKRUPT DEBTOR AGAINST CREDITOR'S CLAIM BY WORKERS ON STATE-OWNED ENTERPRISE PT. PERSERO

Bobby Wijanarko<sup>1</sup>, Catharina Dewi Wulansari<sup>2</sup>, Sentosa Sembiring<sup>3</sup>

<sup>1,2,3</sup> Universitas Katolik Parahyangan

E-mail: [9052101002@student.unpar.ac.id](mailto:9052101002@student.unpar.ac.id)

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### Abstract

This study aims to examine and analyze the legal responsibilities of the Curator in settlement of the assets of bankrupt debtors against the workers' creditors' claims at PT Persero . The issues raised is b how implementation not quite enough answer Curator in bankruptcy moment carry out settlement treasure debtor bankruptcy of PT Persero against bill creditors workers to achieve justice . Research This use method research socio- legal which is approach interdisciplinary combine all aspect perspective discipline science , science social and science law , to be a approach single . With combine method juridical normative in study law that focuses on analysis against existing legal norms in regulation legislation and theory law as well as principles law . This method focus on study to regulation applicable law ( law positive ) and existing norms in look for answer to problems and from study later expected can strengthen the concept that has been there is something related with not quite enough answer law Curator in do settlement treasure the wealth of PT Persero which has stated bankrupt to bill creditors workers Research result This show that not quite enough answer Curator in bankruptcy moment carry out settlement treasure debtor bankruptcy of PT Persero against bill creditors worker Not yet fully fulfil Pancasila justice . This caused by Still there is other factors that influence implementation task from curator and cause fulfillment principle justice felt creditors worker in the process of being sorted out . There is other factors that influence task Curator that can recommended with change draft existing responsibilities in provision Constitution Bankruptcy and PKPU become more wide namely related responsibility answer on error or his negligence in administration and settlement treasure bankrupt when cause loss for treasure bankrupt or creditors . But it is also related with not quite enough answer professional in implementation his duties curator subject to the code ethics profession and the principle of fiduciary duty, namely moral and legal obligations to act in interest recipient trust ( creditors and assets) bankrupt ).

**Keywords:** Curator , Settlement , Assets Debtor Bankruptcy , Creditors Workers , Justice

### 1. Introduction

For realize ideals welfare for all Indonesian people then as mandated in Opening 1945 Constitution Paragraph 4 that For protect all the Indonesian nation and advance welfare general and justice social then the country needs increase mastery to all over strength economy national through state ownership of business units in the sector certain with purpose and objectives For give as much as possible benefit for prosperity of the people. State-Owned Enterprises ( hereinafter called BUMN) which is all or part big the capital originate from separated state assets , is one of them perpetrator economy in system economy national besides business private both bodily Limited Liability Company Law and Cooperative . In development economy national , BUMN also participates as well as play a role produce goods and/ or required services in frame realize as much as possible prosperity of the people. The role of state-owned enterprises is felt the more important as pioneer and/ or pioneer in sectors business that has not been in demand perpetrator business private sector . Besides that , BUMN also has role strategic as implementer service public , balance powers private big , and participate help development business medium , small and micro enterprises . BUMN revenue is one of the source significant state revenue in form various type taxes , dividends and yields privatization . Implementation the role of the BUMN realized in activity business on almost all over sector economy . Even though BUMN has reach objective

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beginning as agent development and driving force creation corporation , however objective the achieved with relative costs high . The performance of BUMN is assessed Still Not yet adequate . This is can seen from low profit earned compared to with the invested capital . In addition , the limitations source power , as well as good BUMN function as pioneer and as balance strength suasta big , also not yet fully can implemented .

Notice characteristic state-owned enterprise seeking benefits and implement benefits general , appropriate provisions of Article 9 of the Republic of Indonesia Law No. 19 of 2003 concerning State - Owned Enterprises ( State Gazette of the Republic of Indonesia 2003 Number 70) hereinafter abbreviated State-Owned Enterprises Law , that simplified form of state-owned enterprises into 2 (two) , namely : Limited Liability Company (Persero) and Public Company ( Perum ). Limited Liability Company according to provisions of Article 1 Number 2 of the State-Owned Enterprises Law , hereinafter called Persero is a BUMN in the form of company limited capital divided in all shares or at least 51% ( fifty One percent ) of its shares owned by the Republic of Indonesia for the purpose of mainly chase profits . While Public Companies according to provisions of Article 1 Number 4 of the State-Owned Enterprises Law hereinafter called Perum , is a state-owned enterprise whose entire the capital state -owned and not divided on shares , which aims For benefits general in the form of provision goods and/ or quality services high and at the same time chase profit based on principle management company . Form business Housing although its existence For carry out benefits general , but thus as a business entity attempted For still independent and for That Housing must efforts are also made to get profit so that you can life sustainable .

PT Persero is required to have a maximum profit target, of course the achievement of this target must be supported by the strong financial capabilities of PT Persero, both from the government through State Capital Participation (PMN), business profits, as well as debt from Bank and Non-Bank Financial Institutions including to Suppliers as well as the issuance of shares, bonds and sukuk in the capital market to help reduce PT Persero's dependence on debt. However, despite having strong financial support, managing PT Persero sometimes doesn't run as smoothly and as easily as planned. While there are no official figures released by the government regarding the size of state-owned enterprise debt in 2024, debt trends can be seen from a number of year previously . At the end In 2022, the total debt of state-owned enterprises was recorded amounting to Rp. 1,640 trillion .<sup>1</sup> This figure Of course viewed Enough significant , although debt to equity ratio state-owned enterprise equity experienced decline , however increase in debt in fixed nominal terms become attention . Maintaining the continuity of PT Persero's business activities is also not easy. Difficult conditions and circumstances in managing the business will significantly impact PT Persero's ability as a Debtor to fulfill its debt payment obligations to its Creditors. Debt payment obligations are the responsibility of PT Persero as Debtor and must be resolved properly to avoid causing financial difficulties and debt and liquidity crises that have a broader impact on business continuity.

To survive the debt and liquidity crisis, of course, it also depends on the conditions and circumstances of each PT Persero and its creditors. If in the difficult situation faced by PT Persero, it turns out that the Creditor is also experiencing a crisis and is also in a state of urgency, the Creditor will definitely collect PT Persero to fulfill its debt payment obligations. Bankruptcy is a process where a Debtor who has financial difficulties in paying his debt is declared bankrupt by the Court, in this case the Commercial Court because the Debtor does not pay his debt to the Creditor. The Debtor can be a person or legal entity that has a debt to the Creditor due to an agreement or law whose repayment can be collected before the Court. provisions of Article 1 Number 6 of the Republic of Indonesia Law No. 37 of 2024 concerning Bankruptcy and Suspension of Debt Payment Obligations ( State Gazette of the Republic of Indonesia 2004 Number 131) hereinafter abbreviated Constitution Bankruptcy is stated obligations or can stated in good amount of money in Indonesian currency and foreign currency , both in a way direct and those that will arise later day or contingent , which arises Because agreement or laws and regulations fulfilled by the Debtor and if No filled give right to Creditors For get fulfillment from treasure riches Debtor . If debt collection is unsuccessful, debt collection through the Suspension of Debt Payment Obligations (PKPU) and Bankruptcy through the Commercial Court can be used as alternative collection methods. The Bankruptcy Law aims to protect creditors by providing a clear and definite path to resolving debtors' unpaid debts. The Bankruptcy Law also aims to protect debtors by providing a way to resolve their debts through a restructuring scheme, hopefully enabling their businesses to revive.

<sup>1</sup> State-Owned Enterprise Debt Amount in 2024: Facts and Figures You Need to Know Observed , , <https://jadibumn.id/umn-debt-2024-facts-you-must-know/>

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The definition of Bankruptcy according to the Bankruptcy Law is a general seizure of all the assets of a Bankrupt Debtor whose management and settlement are carried out by the Curator under the supervision of the Supervisory Judge as regulated in the Bankruptcy Law. The declaration of bankruptcy results in the Debtor legally losing the right to control and manage his assets included in the bankruptcy, starting from the declaration of bankruptcy. In addition, the consequences of the Declaration of Bankruptcy also change the legal status of a person or legal entity to be incapable of carrying out legal acts to control and manage his assets from the time the Declaration of Bankruptcy is pronounced. The main requirement for being declared bankrupt is that the debtor has at least 2 (two) creditors and has not paid in full one of their debts that has matured and is collectible. In this payment arrangement, the interests of both the debtor and their creditors are involved. The bankruptcy declaration decision against the debtor has a major impact on their creditors, so that with the bankruptcy declaration decision, it is hoped that the bankrupt debtor's assets can be used to repay all of the debtor's debts fairly, evenly, and in balance to their creditors.

That There are 3 ( three ) PT Persero which have been declared bankrupt based on decision Commercial Court and then dissolved by the government through publication Regulation Government namely Regulation Government Regulation No. 8 of 2023 Concerning Dissolution of the Limited Liability Company (Persero) PT. Merpati Nusantara Airlines, Regulation Government Regulation No. 9 of 2023 Concerning Dissolution of the Limited Liability Company (Persero) PT. Kertas Indonesian Leces and Regulations Government Regulation No. 13 of 2023 Concerning Dissolution of the Limited Liability Company (Persero) PT. Istaka Work.<sup>2</sup>One of consideration Government do dissolution because PT Persero has stated bankrupt and cause treasure PT Persero is bankrupt in condition insolvency . Third the company PT Persero become interesting company For investigated Because is companies included in not quite enough answer Curator in condition insolvency . Insolvency as mentioned in Explanation of Article 57 Paragraph (1) of the Bankruptcy Law is condition No capable pay . Whereas insolvency ( insolvency ) according to Fridmen , Jack P in Munir Fuady is : “ Inability capable For fulfil obligation financial when fall time like as if in business , or excess obligation compared to with his assets in time certain ” .<sup>3</sup>

## 2. The Curator's Duties are to Manage and Settle the Assets of Bankrupt Debtors

The next issue in bankruptcy in general is how creditors then obtain rights to the bankrupt debtor's assets. Who will manage the distribution of the bankrupt debtor's assets to their creditors based on their respective rights. The bankruptcy declaration decision against the debtor has a major impact on its creditors, so with the bankruptcy declaration decision, it is hoped that the debtor's bankruptcy assets can be used to pay all the debtor's debts fairly, evenly, and in balance to its creditors. Who has the right and how to divide the bankrupt debtor's assets? The Bankruptcy Law has stipulated that those who have the right to do this are the Curator and the Orphans' Estate Office. According to the provisions of Article 1 Number 5 of the Bankruptcy Law, the Curator is the Orphans' Estate Office . Legacy or an individual appointed by the Court For take care of and tidy up treasure Debtor Bankruptcy under Supervisory Judge supervision in accordance with Constitution Bankruptcy . Therefore, when the Bankruptcy Decision is pronounced by the Judge at the Commercial Court, a Curator will also be appointed, tasked with managing and settling the bankrupt Debtor's assets. Task main Curator is do administration and settlement treasure bankruptcy . Curator have obligation For carry out task management and/ or settlement treasure bankruptcy . Purpose of bankruptcy is For pay the rights of creditors that should be they get in accordance with level order demands they .<sup>4</sup> In a way juridical , Curator on duty For take care of and tidy up all over treasure bankruptcy . Management treasure covers taking over management assets , inventory , security assets so as not to is lost or reduced , as well as maintenance mark treasure bankrupt during bankruptcy proceedings ongoing . Meanwhile settlement covering action legal and administrative For sell treasure bankrupt in a way legitimate , efficient and transparent , then distribute results sale the to the Creditors in accordance priority bill in Constitution .<sup>5</sup>

<sup>2</sup> Jokowi Disbands 7 State-Owned Enterprises, Here's the Complete List , December 28, 2023, <https://finance.detik.com/berita-ekonomi-bisnis/d-7112873/jokowi-bubarkan-7-bumn-ini-daftar-lengkapnya> .

<sup>3</sup> Munir Fuady, Bankruptcy Law in Theory and Practice , Bandung: Citra Aditya Bakti, 1999, p . 135

<sup>4</sup> Imran Nating , Role Curator and Curator 's Responsibilities in Management and Settlement Treasure Bankruptcy , Raja Grafindo, Jakarta, 2004, p . 71.

<sup>5</sup> Jihadul Akbar, “ Obligation Curator in Management Treasure Bankrupt and Legal Efforts against Uncooperative Debtors ,” Journal UNAJA Jurisprudence 8, no. 1 (2025): 35–47, <https://doi.org/10.35141/w92b9k31>

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Journal latest confirm that task Curator divided into two stages main , namely stage management and stages settlement treasure bankruptcy . The term “ management ” includes all action necessary start Curator For secure and maintain treasure debtor bankruptcy , while “ settlement ” is realization from settlement asset For fulfil right creditors . In implementation second stage this , curator responsible answer in a way law on every error or negligence that causes loss to treasure bankrupt or interested parties , incl creditors and debtors . In a way operational , journal juridical The latest also underlines that Curator own obligation For face various obstacle in implementation his duties . For example , a debtor who does not cooperative can hamper the inventory process or hand over accept document important , and in situation thus curator Still must finish his duties in accordance with provision legislation while guarantee the settlement process walk fair . Obligation curator This No only administrative , but also includes accountability law when Because his negligence happen loss real for treasure bankrupt or creditors ; at the point This curator can sued and held accountable in a way civil .<sup>6</sup>

The curator plays a role in the management and settlement of the bankrupt debtor's assets, including the bankruptcy of a limited liability company (PT Persero), for the benefit of the creditors and the bankrupt debtor. The Bankruptcy Law stipulates that a curator appointed by a Commercial Court Judge's decision must be independent and not have a conflict of interest with either the debtor or the creditors. From the date of their appointment, the curator must make every effort to safeguard and increase the value of the bankrupt's assets . do administration and settlement to treasure riches Debtor PT Persero's bankruptcy appears problem among them when treasure Debtor bankrupt namely assets of PT Persero which was dissolved it turns out is asset or national wealth . Although there is the concept of a legal entity , the assets of PT Persero are not is national wealth again because in principle has done something separation state wealth from the APBN through inclusion direct as capital of PT Persero with method buy all over or at least 51% of shares in PT Persero, so that riches the his position changed from riches state -owned becomes riches owned by PT Persero.<sup>7</sup> However it turns out opinion about position the country's wealth is in decline behind with Article 2 Letter g as follows intended Law of the Republic of Indonesia No. 17 of 2003 concerning State Finance ( State Gazette of the Republic of Indonesia 2003 Number 47 ) hereinafter abbreviated Constitution State Finance , said " that : State wealth / wealth managed areas Alone or by another party in the form of money, letters valuables , receivables , goods , and other rights that can be assessed with money, including assets separated in state - owned companies / corporations area .

Related with task Curator do administration and settlement to asset or state assets during the liquidation process treasure the wealth of PT Persero of course must notice provision Constitution Bankruptcy However No put aside regulation legislation in the field of state finances . In system law Indonesian bankruptcy , Curator play role central and crucial after Debtor stated declared bankrupt by the court . So decision bankrupt get strength law remain , right Debtor For manage and control treasure bankrupt switch fully to Curator .

### 3. Problems Bill Creditors Worker In Settlement Treasure Debtor Bankrupt

In Article 1 Number 2 of the Law Bankruptcy and PKPU explained that understanding Creditors in a way juridical is : "People who have receivables Because agreement or laws that can billed in advance court ".

According to Sutan Remy Sjahdeini in his book entitled History, Principles, and Theory of Bankruptcy Law , Civil Code No use the term “ Creditor ” but si receivable ( schuldeischer ). According to Article 1235 of the Civil Code connected with Article 1234 of the Civil Code , and Article 1239 of the Civil Code , the to owe ( schuldenaar ) is obligated party give something , do something something or No do something regarding with the agreement , well engagement That arise Because agreement and Because Constitution .<sup>8</sup> Whereas according to Miyadi Rajagukguk , Reina Chanchana Rahel Giovana Sipayung, Vira Ahkika Creditors is a person or legal entity that provides credit to debtor .<sup>9</sup>From the

<sup>6</sup> Andri Virgianto and Tanudjaja Tanudjaja . " Curator 's Liability for Losses Suffered " Debtor Bankrupt and/ or Creditors in Implementation Settlement Treasure Bankruptcy ,” *MORALITY: Journal Legal Studies* 11, no. 1

<sup>7</sup> Afida Ainur Rokfa, Iswi Hariyani, Dodik Prihatin AN, Legal Position of PT Persero's Assets in Implementation of General Seizure Due to Bankruptcy , *Journal Knowledge Notary Publication* Volume 1 Issue 1 (2020), p . 40

<sup>8</sup> Sutan Remy Sjahdeini, History, Principles, and Theory of Bankruptcy Law . pp. 115-116

<sup>9</sup> Miyadi Rajagukguk, Reina Chanchana Rahel Giovana Sipayung, Vira Ahkika Maharani, “ Delete it A Bond In Novation Related Policy Government In the form of Relaxation Credit The Consequences of Covid-19 Based on Contract Law ”, *Jurnal de Jure*, No.1, Vol.14, 2022, p. 84

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definition the can known that base existence connection law between creditors and debtors is existence agreement that causes emergence rights and obligations between second party the .

Legal basis existence Creditors can found in regulation legislation below This :

- a. Articles 1131-1149 of the Civil Code Wetboek ( Civil Code ) .
- b. Constitution Bankruptcy and Suspension Obligation Debt Payment (PKPU)
- c. Chairman's Decision Supreme Court of the Republic of Indonesia Number : 109 /KMA/SK/IV /2020 Concerning the Enforcement of Book Guidelines Settlement Case Bankruptcy and Suspension of Obligations Debt Payment .

Based on provisions in Articles 1131-1149 of the Civil Code Wetboek creditors encountered can categorized into 3 ( three ) , namely :

- a. Creditors Separatist that is Creditors holder guarantee material based on Article 1134 Paragraph (2) of the Civil Code namely Pawn and Mortgage .
- b. Creditors Preferences that is Creditors who have right get ahead Because characteristic receivables . Creditors Preferences consists of from Creditors preference special , as such arranged in Article 1139 of the Civil Code , and Creditors General Preferences , as arranged in Article 1149 of the Civil Code .
- c. Creditors Concurrent that is Creditors who do not including in Creditors Separatists and Creditors Preference (Article 1131 in conjunction with Article 1132 of the Civil Code ) .

That matter The same with cargo provision in Article 2 Paragraph (1) of the Law Bankruptcy and Suspension Obligation Debt Payment (PKPU), creditors in law bankruptcy differentiated become three group , namely creditors concurrent , creditor separatists and creditors preferred . In matter This Creditors separatists and creditors preference own position special caused by Because own right submit application statement bankrupt without lost right collateralized property as well as still get priority in settlement receivables . Creditors separatist is the party that owns right guarantee material on asset debtors , such as right mortgage , pledge , pawn and guarantee fiduciary . Meanwhile that , creditors preference as intended in Article 1139 and Article 1149 of the Civil Code ( KUH Perdata ) is creditors who own position special or privilege in settlement his receivables . Privileges the is given by Constitution or can was also born from agreement which gives priority for creditors certain For come first the payment .

Receivables that are obtained right priority the known as receivables preference or receivables special . In Article 1139 Code of Law Civil Code ( Civil Code ) is regulated about creditors preference special Whereas in Article 1149 of the Civil Code Civil arranged creditors preference general . Second type creditors the get right special from Constitution For come first in settlement receivables . whereas uncollectible receivables own privileges and completed in a way balanced between creditors other called receivables concurrent , which settlement follow principle balance or pari passu pro rata parte. Creditor preference consists of into two categories , namely creditors preference special as arranged in Article 1139 Books Laws and Regulations Civil Code ( Civil Code ) and creditors preference general as arranged in Article 1149 of the Civil Code . Second type creditors the get right special from Constitution For come first in settlement receivables . Based on provisions of Article 1134 Civil Code Civil , rights privilege is position law which is special and is given by Constitution to creditors certain Because characteristic his receivables . Privileges This only valid if mark treasure riches debtor confiscated No sufficient For pay off all over obligation to the creditors . With however , although guarantee material like mortgage , rights liabilities , mortgages , and fiduciary give protection for creditors holder , position right privilege still be at the level higher priority tall in order settlement receivables .

Creditors concurrent is the party that does not including in group creditors separatist and creditors preferred . Position they in bankruptcy proceedings is at in order final in settlement receivables , because No own right guarantee material or right special that gives priority payment . With Thus , creditors concurrent only entitled get settlement in a way balanced from treasure bankrupt the remaining , according to with magnitude each receivable against total liabilities debtor . In context law civil , creditors concurrent often called as creditors usual , namely the party that his receivables No guaranteed by instrument like pawn , fiduciary , or mortgage . The principle used in settlement is pari passu prorata parte , namely principle distribution in a way proportional and simultaneous between all over creditors concurrent without existence right get ahead One each other. Position worker in bankruptcy is as creditors preferences that have right For prioritized in reception debt repayment compared creditors others . This right given to creditors

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preference Because existence guarantee or collateral provided by the debtor .<sup>10</sup>In 2013 , it was issued Decision Court Constitution Number 67 /PUU-XI/ 2013, where happen change important in priority debt payment . Decision Court Constitution the state that “ payment wages laborer must come first on all type creditors , including creditors separatist , bill state rights , and public bodies formed by the government . The decision This clear just confirm that in matter payment right workers , in particular wages owed , must be prioritized , while payment rights worker others also more prioritized than obligation to creditors , except creditors separatists who have guarantee .

Problems related bill creditors rights PT Persero workers who then disbanded after they Work during dozens even dozens year in practice the cleanup also gave rise to various problem related bill workers . When PT Persero is declared Bankrupt based on Decision Commercial Court and then is at in condition insolvency so that result occurrence Termination Connection Work (PHK) then problem rights PT Persero workers who have not given will billed by workers so that become bill creditors workers . Bills creditors workers in general related with bill payment wages and other rights that arise as consequence occurrence of layoffs, Position creditors holder guarantee or creditors separatist , become part reason creditors worker No paid off the bill as billed Because happen pull interesting interest between Creditors Seperatis , Creditor Preferences , Creditors Workers and Curators , so result in rights PT Persero workers become No protected . Bill wages worker has categorized as right special based on provisions of Article 95 Paragraph (4) of the Republic of Indonesia Law Number 13 of 2003 concerning Employment ( State Gazette of the Republic of Indonesia 2004 Number 131 ) hereinafter abbreviated Constitution Employment , said that :

” In company stated bankrupt or liquidated based on regulation applicable laws and regulations , then wages and rights other from workers / laborers is a debt that comes first payment ”.

Position bill creditors worker This Then clarified Court Constitution in decision No.67/PUU-XI/2013 which states in principle that :<sup>11</sup>

” payment wages workers / laborers who are owed come first on all type creditors including on bill creditors separatist , bill state rights , office auctions , and public bodies formed The government , meanwhile payment rights workers / laborers other come first on all bill including bill state rights , office auctions , and public bodies formed Government , except bill from creditors separatists ”

Decision Court Constitution Number No.67/PUU-XI/2013, only valid For wages workers and not yet including rights other as consequence occurrence Termination Connection Work (PHK) in the form of severance pay , award money and replacement money right including pension money . Position bill wages worker become more main from all type bill , payment wages worker must come first than state and creditor bills separatist so that provisions of Article 95 Paragraphs (1), (2), and (3) of the Republic of Indonesia Law No. 11 of 2020 concerning Job Creation which states ( State Gazette of the Republic of Indonesia 2020 Number 245 ) hereinafter abbreviated The Job Creation Law in Article 95 Paragraph (1) states that : ” In matter company stated bankrupt or liquidated based on provision regulation legislation , wages and rights others who have not accepted by workers / laborers is a debt that comes first payment ” . Then Article (2) states “ Worker / laborer wages as referred to in paragraph (1) takes precedence the payment before payment to all creditors ” . and paragraph (3) ” Other rights from workers / laborers as referred to in paragraph (1) takes precedence the payment on all creditors except for creditors holder right guarantee materiality ”.

In bankruptcy proceedings to bill creditors new PT Persero workers Can done payment after Curator do settlement to wealth of PT Persero. In implementation his duties it turns out The curator who has appointed by the Commercial Court in do action settlement to PT Persero's wealth experienced various obstacles and barriers that bring implications can in the form of complaint code ethics to Curator , pressure as well as effort For replace position Curator even until with report police to Curator . Disfluency Curator in carry out clean-up actions to treasure Debtor PT Persero's bankruptcy is certain will influential to payment to bill Creditors workers who have looking forward to his rights . Pay attention condition the so Curators also need get protection law related with action settlement to assets of PT Persero which are also asset or state wealth . This is so If No arranged with Good Of course just can make things difficult Curator at the time do administration and settlement stand on from a number of problem as described above study This want to

<sup>10</sup> Benyamin Purba , John Pieries, Wiwik Sri Widiarty, Position Employee As Creditors Preferences Consequence Determination Delay Obligation Debt Payment of a Company, Action Research Literate Vol . 8, No. 12, December 2024.

<sup>11</sup> Look Decision Court Constitution of the Republic of Indonesia No. 67/PUU-XI/2013 concerning Settlement Payment of Labor Wages

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give draft new to duties and responsibilities answer Curator to implementation settlement treasure debtors of PT Persero in general special the impact to bill creditors worker so that later expected can become balance interest debtors and creditors at a time expected can give protection law for Curator in the liquidation process of PT Persero.

Problems faced by curators in settlement payments to the company PT Persero in the case above among other things bills by creditors Worker among other things , who represents worker in do bill . In addition if worker enter in union workers , then what is needed in question is if union worker there is more from one at a level company . How actions that can be conducted by the Curator if there is difference attitudes among union worker regarding the settlement process carried out by the Curator . The asset holder has not handed over the assets. guarantee to Curator in settlement treasure debtor bankruptcy that causes No fulfilled right creditors worker .

## 4. Legal Responsibilities of the Curator To Bill Creditors Worker

Not quite enough answer Curator No only implementer administrative , but also responsible answer in a way law . Two aspects important not quite enough answer curator according to study latest is :

### a. Civil Liability

Curator responsible answer on error or his negligence in administration and settlement treasure bankrupt when cause loss for treasure bankrupt or creditors . Law About Bankruptcy and PKPU Article 72 confirms that curator can sued If Because his mistake happen loss .

### b. Professional and Ethical Responsibilities

In implementation his duties , curator subject to the code ethics profession and principles fiduciary duty , namely moral and legal obligations to act in interest recipient trust ( creditor and debtor) bankrupt ). The curator who misused power or do conflict interest can subject to sanctions civil , administrative , even criminal in condition certain .

When PT. Persero is declared bankrupt Curator No own equal position and authority with Board of Directors of the Company.<sup>12</sup> Curator in law bankruptcy is the party given mandate full For take care of and tidy up treasure bankrupt since decision bankrupt powerful law still . His job covers inventory , security , management , implementation sale assets , and distribution results For fulfil right creditors in accordance priority . Curator must be own mastery good theory and practice , mastery the will determine quality from settlement Treasure Bankrupt .<sup>13</sup> Curator responsible answer in a way civil and professional on every negligence that causes harm treasure bankrupt or party concerned , and he working under supervision of the supervising judge For ensure justice as well as certainty law .

In practice bankruptcy Curator hold key as machine operational translation decision bankrupt to in action concrete .<sup>14</sup> Curator in law bankruptcy is the party given mandate full For take care of and tidy up treasure bankrupt since decision bankrupt powerful law still . His job covers inventory , security , management , implementation sale assets , and distribution results For fulfil right creditors in accordance priority . Curator responsible answer in a way civil and professional on every negligence that causes harm treasure bankrupt or party concerned , and he working under Supervisory Judge supervision For ensure justice as well as certainty law .

Settlement treasure bankrupt is peak from the bankruptcy process which aims For settle debtor's debts to creditors in a way fair and proportional . In system Indonesian law , Law About Bankruptcy and PKPU regulate that treasure the stated debtor bankrupt must mobilized and realized its value For pay debts to Creditors in order certain . This process supervised by the Supervising Judge and managed by the Curator as implementer tidying up . In context this , Creditor Worker become the receiving party protection special Because his status as creditors preferences that have right on wages , severance pay and rights other norms that have not been fulfilled by the Debtor .<sup>15</sup> If Because negligence or error Curator happen subtraction mark treasure bankrupt or delay in settlement , then Curator can accountable in a way civil by the injured party .

<sup>12</sup> Nien Rafles Siregar, State-Owned Enterprise Bankruptcy : Dualism Court Attitude , Siregar Setiawan Manalu Partnership, Jakarta, 2019. p. 50

<sup>13</sup> Soedeson Tandra, *Bankruptcy Law : Working Paper Curator & Administrator* , Laksbang Pustaka, Yogyakarta, 2022. p. ix

<sup>14</sup> Nien Rafles Siregar, Amalia Kurniaputri , UNCITRAL Model Law on Cross-Border Insolvency: Exploration of Legal Interpretation, Basic Principles , and Relevance for Bankruptcy Governance in Indonesia, Rajawali Pers, Depok, 2025. p. 128

<sup>15</sup> Constitution Number 37 of 2004 concerning Bankruptcy and PKPU.

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Creditors worker is the receiving party priority payment receivables wages and other compensation of a nature preference . Responsibility answer Curator to Creditors Worker beyond recording administrative , but rather must nature proactive in identify right workers , guarding mark assets , as well as ensure fair distribution . Research show that negligence curator in verification receivables worker become reason main injustice in bankruptcy .<sup>16</sup> The curator is also responsible answer choose a clearing strategy that maximizes results , because mark asset determine ability pay right workers . When the Curator sell asset with price low without clear reasons , things This can reduce mark boedel bankrupt so that right worker No fulfilled . In case certain , curator must consider option going concern For increase mark asset before realization .<sup>17</sup>

More far , responsibility answer curator must viewed as not quite enough answer related laws and ethics with justice distributive . Curator No only operate task technical , but also act as guard rights social workers who are in positions weak . Therefore that , the mechanism supervision of supervisory judges and accountability law become important For ensure curator act in accordance standard professional and legal .<sup>18</sup> Curator appointed by the Court with task For take care of and tidy up Treasure Debtor Bankrupt since date decision bankrupt spoken below supervision of the Supervisory Judge , as provisions of Article 1 number 5 in conjunction with Article 16 paragraph (1) in conjunction with Article 69 of Law no. 37 of 2004 concerning Bankruptcy and PKPU.

Curator in operate task administration and settlement Curator must based on regulations legislation and implement it in a way effective and efficient . Curator must carry out tasks and tidying up tasks and tidying up must carried out in a way fair , based on the code ethics , honesty , good faith good and prioritize interest other parties above interest personal . In carry out task administration and settlement Curator faced with various obstacles and problems that arise Good from self Curator Alone in the form of existence interest personal Curator Alone and from outside Curator namely existence pressure from other parties . When Curator do task administration and settlement sometimes experience constraint when face Creditors Workers who apply bills . Common initial obstacles happen due to lack of understanding procedure against the legal process bankruptcy and requirements administrative , completeness document Where worker often difficulty provide evidence supporters bill as well as complexity calculation Where count rights workers ( wages , severance pay , long service award money , etc. ) according to Constitution Employment Enough complicated and frequent become main dispute as consequence not enough understand worker to rule employment and bankruptcy .. It is not No Possible thus continue until with the distribution process to submitted bill Creditors Worker .

While in carry out task administration and settlement it turns out has result in loss to treasure bankrupt as consequence from error or his negligence so Curator must responsible , thing thus as provisions of Article 72 of Law No. 37 of 2024 concerning Bankruptcy and PKPU. This article emphasize the need protection interest Creditors and Debtors on action Curator during the process of managing and settling . Provisions This made into base in lawsuit actions oppose law to Curator while Curator assessed harm other parties in operate his duties . Existence not quite enough answer law Curator to Creditors Worker can also be based on from right worker (right based) and needs workers (need based) . Workers' rights is rights mandatory basis given to worker covering protection wages , guarantees social , until severance pay . Meanwhile need worker is rights that exceed normative worker can in the form of welfare , facilities or compensation additional . Against submitted bill Creditors Worker then at the time Meeting Creditors with a verification agenda bill Curator Certain will inspect fairness and truth details submitted bill Creditors Worker For Then will matched with the data available to the Debtor . Likewise in the distribution process to results sale treasure bankrupt injustice is also felt and experienced Creditors Worker

However when Curator in carry out task administration and settlement it turns out creates a sense of injustice experienced by Creditors Workers who feel interest Worker No protected , started since the verification process bill Creditors Worker until with stages distribution from results sale Treasure Debtor Bankrupt Where often happen pull interesting interest between Creditors Separatists and Creditors Worker Because lack of understanding and acceptance to results division . Against not quite enough answer Such a curator it turns out No arranged in provisions of Article 72 of Law No. 37 of 2024 concerning Bankruptcy and PKPU. So here it is need required draft new not quite enough Legal Responsibility of the Curator to Creditors Worker .

<sup>16</sup> Syahputra et al., Analysis Legal Rights of Workers Consequence Corporate Bankruptcy , Karimah Tauhid 4, no. 8 (2025).

<sup>17</sup> Notonagoro , Pancasila: The Philosophical Basis of the State (Jakarta: Pantjuran Seven , 1975).

<sup>18</sup> John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

## CURATOR'S RESPONSIBILITIES IN SETTLEMENT THE ASSETS OF THE BANKRUPT DEBTOR AGAINST CREDITOR'S CLAIM BY WORKERS ON STATE-OWNED ENTERPRISE PT. PERSERO

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In law Indonesian bankruptcy, duties Curator covers administration and settlement treasure bankrupt since the switch right management asset from debtor to curator after decision bankrupt powerful law still. Management covering inventory and maintenance property, while settlement covering sale asset For fulfil obligation to creditors. The curator also bears not quite enough answer law on every error or negligence that causes loss to treasure bankrupt, and can sued in accordance provision Constitution Bankruptcy The principle of justice for a Curator is capable behave fair when take notes all over treasure bankrupt Good hidden treasure or the real one, looking for or maximize treasure bankrupt, guard or increase mark treasure bankrupt, sell treasure bankrupt at price maximum, divide results sale bankrupt to every Creditors in accordance with strata, and dissolve Debtors who have insolvent. More again, trend Curator abroad, a Curator new feel success if succeed healthy economy Debtor.<sup>19</sup>

State-owned enterprise workers in the form of PT. Persero are subject to the Agreement Employment so Labor Law applies and not Civil Service Law Because State-owned enterprise workers are not is Apparatus State Civil Servants (ASN). Due to their position That then the state must paying attention to marginalized people related with Bankruptcy of State-Owned Enterprises. The function of the state as holder share is operate right ownership and control on state-owned enterprises in the form of PT. Persero. Through ownership shares, the state acts as capital owners to ensure company plate red operate in a way professional, achieve profitability, and service interest public. However, in side That the function of the state as Community Protectors take action as a Regulator then must notice position Creditors Workers. However if only Creditors Worker only one that is noticed so justice is also not fulfilled Because should be all interest Creditors must fulfilled. Country.

### 5. Closing

Based on the description that has been delivered can concluded, conclusions and suggestions as following:

- a. Implementation not quite enough answer Curator in bankruptcy moment carry out settlement treasure debtor bankruptcy of PT Persero against bill Creditors Worker if reviewed from perspective Pancasila Justice has not yet fully fulfil Pancasila justice. This caused by Still there is other inhibiting factors that influence implementation task from curator and cause fulfillment principle Pancasila justice is felt by stakeholders, especially Creditors Worker in the process of being sorted out.
- b. Not quite enough answer law Curator in carry out settlement treasure debtor bankruptcy at PT Persero which was declared bankrupt to bill creditors workers to achieve Pancasila justice can done with change draft existing responsibilities in provision Constitution Bankruptcy and PKPU become more wide No only those related responsibility answer on error or his negligence in administration and settlement treasure bankrupt when cause loss for treasure bankrupt or creditors. But it is also related with not quite enough answer professional in implementation his duties curator subject to the code ethics profession and principles fiduciary duty, namely moral and legal obligations to act in interest recipient trust (creditor and debtor) bankrupt). The curator who misuses power or do conflict interest can subject to sanctions civil, administrative, even criminal in condition certain;
- c. Recommended to Curator in operate not quite enough the answer is so that in carry out settlement can apply principle justice so that rights normative worker can filled matter the done beside For fulfil obligation in a way proportionally so that it can create a sense of satisfaction for party creditors especially creditors workers who have during This together with company develop his efforts.

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<sup>19</sup>Fadel Muhammad, Relevant Legal Principles With Curator In Operate His job As Executor Decision Domestic Commercial Court Case Bankruptcy, Volume 3 Number 1, February 2021, pp. 18-29

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