



Croatian
International
Relations
Review

—
CIRR

—
XXIX (92) 2023,
108-124

—
DOI 10.2478/
CIRR-2023-0009

—
UDC 327 (4-6
EU:73:55)

Legal Protection for Creditors in Bankruptcy Law: Implementing the Bankrupt Boedel Execution

Daniel Hendrawan

Maranatha Christian University

Deny Haspada

Langlangbuana University

Demson Tiopan

Maranatha Christian University

Abstract

Key words:
protection,
execution,
bankruptcy,
creditor, civil code.

Bankruptcy is a legally recognised mechanism employed to safeguard the financial interests of creditors. The proper administration of the bankruptcy estate is a crucial aspect of the bankruptcy process. Currently, the evolution of various goods necessitates the executor to consider the regulations that control them. The process of executing collateral objects necessitates the categorization of object types and the consideration of various factors. This includes the execution of objects that are not part of the bankruptcy estate, which requires the regulation and classification of these objects. By effectively managing the execution of these objects and their classification, the bankruptcy execution process can be conducted efficiently. The purpose of implementing measures to safeguard creditors in the event of debtor bankruptcy is to promote sustainable practises within entrepreneurship. By ensuring that creditors are not at risk of financial harm when debtors associated with them declare bankruptcy and are unable to fulfil their debt obligations, it becomes possible to maintain business continuity. This article employs a normative juridical approach. Normative juridical research pertains to the examination and analysis of the doctrines or principles within the field of legal science. The normative juridical approach refers to a legal methodology that involves the examination of regulations, including primary legal sources and secondary legal resources, as well as the application of relevant laws to address and resolve legal issues. This study also aims to elucidate the processes involved in the implementation of bankruptcy-related executions. The legal safeguards for creditors involved in the administration of bankruptcy estates have been effectively controlled and safeguarded in the Guidelines for the Implementation of Auctions issued by the Minister of Finance of the Republic of Indonesia, as well as in the provisions of the Civil Code. The safeguarding process is implemented during the administration of the bankruptcy estate via an auction mechanism. In this particular instance, the court has declared the debtor bankrupt, resulting in the initiation of an auction to liquidate the debtor's assets. The auction method represents a legally established safeguard for creditors. Nevertheless, during the execution of the auction, it is imperative to adhere to many legal frameworks, including the Civil Code and the Minister of Finance's Regulation on Auction Implementation Guidelines. The purpose of this measure is to ensure that the auction process remains mindful of the principle of legal certainty.

Introduction

The legal association is regulated by a minimum of two entities, specifically the creditor and the debtor, particularly within the realm of contract law (Asikin, 2000). The process of declaring bankruptcy encompasses various elements of the bankruptcy event. This event occurs when a debtor discontinues making payments on their obligations. However, it is important to note that the debtor is not completely ceasing all payments, but rather remains in a state of non-payment at the time of filing the bankruptcy application (Kansil, 2002). Borrowers who are incapable of fulfilling their financial obligations within the designated timeframe are

referred to as insolvent. The declaration of bankruptcy by a court docket is contingent upon the debtor's insolvency ([Sjahdeini, 2016](#)).

Globalisation and technology are widely recognised as the primary catalysts shaping the trajectory of the 21st century. Although there have been significant economic and scientific advancements, numerous legal matters have still to be resolved. The globalisation of the global economy has resulted in a notable augmentation of commercial exchanges among entrepreneurs from diverse national backgrounds. The economic crisis that occurred in Indonesia in 1997 had a detrimental impact on the fundamental structure of the country's economy. In order to address the prevailing problem, the government has undertaken measures aimed at augmenting the level of investment in Indonesia. This investment prioritises equity-based investment, including foreign direct investment and portfolio investment through the stock market (portfolio investment) ([Sujatmiko & Suryanti, 2017](#)).

Many Debtors find themselves ensnared in this predicament due to excessive investment, only to discover that the business or investment in question is not performing as anticipated. Various assets are acquired by the debtor who has filed for bankruptcy, necessitating the utilisation of those assets to fulfil the debtor's outstanding obligations. In this particular scenario, it is evident that creditors are placed in a position of disadvantage. It is imperative to safeguard the losses incurred by the creditor through the implementation of appropriate legal measures aimed at protecting their interests.

Likewise, lots of debtors find themselves ensnared in a cycle of indebtedness due to excessive investment, only to discover that the business or investment fails to operate optimally. Various assets are acquired by the debtor who has filed for bankruptcy. Consequently, the debtor is required to liquidate these assets in order to satisfy their outstanding debts. In this particular scenario, it is evident that creditors are placed in a position of disadvantage. Creditors seek protection against losses through the implementation of execution as a means of safeguarding lenders within the prison system.

The evolution of various categories of commodities over time necessitates the scrutiny of the regulations that control them by the executor. The process of executing objects in the context of bankruptcy necessitates the categorization of various categories of objects. Additionally, it is crucial to consider the execution of collateral items that fall outside the bankruptcy estate. Adequate provisions must be made to facilitate the execution of these objects and their proper classification, hence ensuring the smooth operation of the bankruptcy execution process. The purpose of implementing measures to support sustainability in entrepreneurship is to safeguard the interests of creditors in the event of debtor bankruptcy. By promoting sustainable practises, creditors can mitigate the risk of financial harm if the debtor, who is associated with the creditor, becomes insolvent and unable to fulfil their financial obligations. This, in turn, ensures the

continuity of business operations. The author is interested in exploring the role of prison protection for creditors within bankruptcy law and its impact on the execution of bankrupt estates. Several research papers have examined the topic of bankruptcy and its associated laws, while there is a limited body of research that also explores the corresponding systems. Limited attention has been given to the comprehensive examination of bankruptcy auctions within existing research papers that explore various bankruptcy systems. However, it is crucial to note that bankruptcy auctions have significant importance within the context of bankruptcy proceedings. Furthermore, a limited number of research studies have been conducted to describe and analyse the execution of Boedel in bankruptcy cases. Limited research studies have examined the execution and auction in question, particularly within the specific context of Indonesia. Moreover, there is a paucity of empirical research that has undertaken a subjective investigation on this subject matter in conjunction with employing the normative juridical approach. The originality of this work lies in its comprehensive description of bankruptcy laws and regulations pertaining to the safeguarding of creditors, as well as the intricate aspects of the Boedel execution and auction system. The primary objective of this study is to address the existing knowledge gap in the literature and develop a theoretical framework to explain it.

This paper will additionally examine the legal framework in Indonesia pertaining to bankruptcy, elucidating how these regulations serve to safeguard the interests of creditors in instances of bankruptcy.

Several research studies ([Bose, Filomeni, & Mallick, 2021](#); [Damaraju, Barney, & Dess, 2021](#)) have been undertaken to investigate the legislative and regulatory frameworks pertaining to bankruptcy. These research projects have underscored the importance of conducting research to evaluate the bankruptcy auction system in this context. Several scholarly works ([Sadikin, 2022](#); [Stef & Dimelis, 2020](#)) have examined the role of bankruptcy rules in safeguarding creditors' interests and ensuring their protection.

The present investigation examines the laws pertaining to bankruptcy and their efficacy in resolving difficulties associated with corporate or business insolvency, as explored by [Staszkiwicz and Morawska \(2019\)](#). The subject of bankruptcy was deliberated, with emphasis placed on the creditors' stake in the proceedings. This study also underscored the need for future researchers to evaluate the efficacy of legal protection schemes in safeguarding the interests of creditors. The present study is being conducted to address the aforementioned gap in the literature on bankruptcy laws, thereby contributing valuable insights to this field.

The objective of this study is to assess the extent of legal safeguards available to creditors during the administration of bankruptcy estates, as prescribed by bankruptcy legislation. The fulfilment of legal justice can be achieved through an understanding of the legal protection framework that applies to creditors in the administration of bankruptcy estates.

This research study is expected to have a substantial impact since it will contribute to the current body of literature and knowledge. As previously said, there is a dearth of research studies examining the efficacy of legal protection laws and bankruptcy models pertaining to creditor rights in instances of corporate insolvency. Furthermore, this research will employ a normative juridical approach and qualitative research methodology, which are not commonly utilised in the evaluation of these protective legislations. As a result, this study will make a valuable contribution to the current body of literature. This analysis holds substantial importance for academics as it provides a comprehensive examination of laws and regulations pertaining to auctions and bankruptcy. Consequently, it enables researchers to get insights into the current legislative landscape and the existing body of research on this subject matter. It will also hold considerable importance for governmental entities, politicians, and legislative bodies who bear the responsibility and jurisdiction for enacting laws and regulations pertaining to this matter.

Literature Review

The present study is grounded in a theoretical framework known as the theory of legal protection. According to [Moertiono \(2021\)](#), Satjipto Rahardjo posits that the interpretation of legal protection entails the endeavour to safeguard an individual's interests through the allocation of a human right of authority, enabling them to act within the framework of those interests.

In this study, we aim to investigate the effects of climate change on biodiversity in tropical rain. Within the framework of this study, this theory serves as a foundation for addressing inquiries pertaining to the structure of legal safeguards for creditors during the administration of bankruptcy estates.

A previous study titled "Legal Protection of Creditors in Implementing Bankruptcy Redemption" was authored by Herlina Basri and other scholars affiliated with Borobudur University. The study focuses on examining the legal safeguards provided to creditors during the process of bankruptcy execution. The research primarily addresses two key concerns: the provision of legal safeguards for creditors during bankruptcy proceedings and the pressing need for reform in bankruptcy legislation to provide fairness and legal predictability. While there are many underlying similarities, the primary focus of the author's research in this instance pertains to the legal safeguards implemented to protect creditors during bankruptcy proceedings, specifically through the utilisation of asset auctions.

The study undertaken by [Rasji, Saly, and Widyastuti \(2023\)](#) examined the legal safeguards for creditors in the context of bankruptcy proceedings in Indonesia. According to the findings of the research, it was discovered that Article 41 of the Bankruptcy Law in Indonesia grants creditors the entitlement to petition for the annulment of the debtor's legal proceedings

in situations when an asset poses a potential threat to the creditors' rights. Additionally, it has been noted that the bankruptcy laws in Indonesia offer enhanced assistance and safeguarding measures for creditors. [Huang \(2022\)](#) additionally examined the topic of bankruptcy laws. The study elucidated the legislative mechanisms employed to safeguard the interests of creditors. Additionally, it was elucidated that creditors are categorised into several groups, with unsecured creditors being allocated the lowest priority in the bankruptcy proceedings, resulting in their receipt of payment at the conclusion of the process. Under the provisions of the bankruptcy legislation, individuals are granted the entitlement to participate in the initial gathering of the creditors and submit a formal objection to the allocation of assets. Based on [Stef's \(2023\)](#) study, it is seen that the creditors are duly established and their claims are fulfilled, but in a sequential manner based on priority, such as prioritising secured claims.

The findings of the study indicate that despite the establishment of prioritisation in claims, bankruptcy rules in numerous nations continue to exhibit a bias towards prioritising significant claims, such as those pertaining to child support. [Birney and Smith \(2022\)](#) did a new research study aimed at analysing the consumer bankruptcy law. The investigation unveiled the existence of legal provisions aimed at safeguarding the interests of creditors, encompassing aspects such as the prioritisation of claims, determination of claim amounts, and the ability to contest debtor claims, among others. The study posits that the mere existence of rules may not be a comprehensive determinant, as cases and claims made by creditors in bankruptcy frequently encounter difficulties. Furthermore, it has been noted that priority claims pose a significant challenge within the legal framework.

Methods

In order to achieve the study's objectives and satisfy its purpose, the qualitative research approach has been chosen above the quantitative research method. This decision is based on the study's intention to ascertain the legal safeguards provided to creditors during the execution of bankruptcy estates, as outlined in bankruptcy legislation. The utilisation of the qualitative research method facilitates the execution of a comprehensive investigation, particularly in cases where the inquiry pertains to subjective phenomena. Consequently, this method is deemed very appropriate in such circumstances. The study has employed the inductive research methodology to provide a theoretical framework about the legal safeguards provided to creditors in the administration of bankruptcy estates. Interpretivism has been employed in light of its inherent behaviour. This article employs a normative juridical approach. The field of normative juridical study pertains to the examination and analysis of the doctrines or principles within the discipline of law ([Ali, 2009](#)). In this study, we aim to investigate the effects of social media usage on mental health. The normative juridical approach refers to a legal methodology that involves the examination of regulations, including

primary legal sources and secondary legal resources, as well as the application of relevant laws to address legal issues or difficulties. This study also aims to elucidate the process of implementing bankruptcy-related executions.

Results

Bankruptcy serves as a method for implementing general confiscation actions, wherein multiple parties play crucial roles in facilitating the operation of this mechanism. The aforementioned parties can be regarded as key stakeholders responsible for overseeing the implementation of the bankruptcy mechanism in Indonesia. Their absence would hinder the effective functioning of the bankruptcy system in the country. The following entities serve as instrumental agents inside the bankruptcy system in Indonesia.

1. Party Submitting Bankruptcy Application

Under bankruptcy regulations, multiple scenarios exist in which various entities can file a bankruptcy petition with the commercial court. This possibility is supported by Article 2 of Indonesian bankruptcy law, which permits the involvement of multiple parties in the bankruptcy process. The parties in this case are as follows:

a. Debtor

As per the Indonesian Bankruptcy Law, if a Debtor files a bankruptcy petition against themselves, they must demonstrate the presence of multiple Creditors. Additionally, the Debtor is required to provide evidence indicating their genuine inability to settle the debts owed to these Creditors, debts that are currently due and payable.

b. Creditors

Moreover, the 2004 Indonesian Bankruptcy Law stipulates that one or multiple creditors have the right to seek a declaration of bankruptcy if the debtor possesses multiple creditors who are not fulfilling their financial obligations.

c. Public Prosecution Service

In accordance with Article 2, paragraph (2) of the 2004 Indonesian Bankruptcy Law, the office of the Attorney General is authorized to initiate bankruptcy proceedings, driven by the rationale that such actions serve the broader welfare of the public. The phrase "public interest," as defined by this regulation, encompasses the well-being of the country, the state, or specific segments of society, comprising:

- 1) The debtor runs away.
- 2) The debtor embezzles part of the assets.
- 3) The debtor has debts to State-Owned Enterprises (BUMN) or other

- business entities whose business activities are engaged in collecting funds from the public.
- 4) The debtor has debts obtained through raising funds from the wider community.
 - 5) The debtor does not have good faith or is cooperative in efforts to resolve the problem of debts that are due or have matured; And
 - 6) In other matters, according to the Attorney General, this is in the public interest.

d. Bank Indonesia

Bank Indonesia possesses the prerogative to seek bankruptcy proceedings if the debtor under consideration is a bank. This course of action, however, necessitates a thorough evaluation of both the financial state and the prevailing banking conditions within Indonesia during that particular period.

e. Capital Market Supervisory Agency / Financial Services Authority

The Capital Market Supervisory Agency is responsible for handling bankruptcy declaration applications when the debtor in question is a securities corporation, stock exchange, clearing guarantee institution, or depository and settlement institution. However, in 2011, following the enactment of the Indonesian Financial Services Authority Law 2011, significant alterations were introduced to the financial industry and financial services sector in Indonesia. These modifications were a consequence of the transitional provisions outlined in Article 55 of the Indonesian Financial Services Authority Law 2011, which stipulates that:

1. Starting from December 31, 2012, the functions, duties, and powers related to the regulation and oversight of financial services activities in the realms of Capital Markets, insurance, Pension funds, Financing institutions, and other financial services entities were transferred from the Minister of Finance, the Capital Market Supervisory Agency, and the Financial Institutions Supervisory Agency to the Indonesian Financial Services Authority (Otoritas Jasa Keuangan or OJK).

2. Effective from December 31, 2013, the functions, duties, and powers related to the regulation and oversight of financial services activities within the banking sector were transferred from Bank Indonesia to the Indonesian Financial Services Authority (Otoritas Jasa Keuangan or OJK).

Article 55 of the Indonesian Financial Services Authority Law of 2011 has brought about significant changes to the functions, responsibilities, and regulatory authority over banking, transferring these from Bank Indonesia to the Indonesian Financial Services Authority. This includes the transfer of regulatory and supervisory powers for activities within the capital market from the Capital Market Supervisory Agency to the Financial Services Authority.

This transition also had repercussions on the Indonesian Bankruptcy Law of 2004, specifically in Article 2, Paragraph (1), where the previously stipulated authorities underwent changes. Consequently, the functions, responsibilities, and powers of the aforementioned institutions were transferred to the Indonesian Financial Services Authority, except for the submission of bankruptcy applications for banks, which remains under the jurisdiction of Bank Indonesia. Thus, when a debtor within the capital market sector seeks bankruptcy, the authority to initiate bankruptcy proceedings that was once held by the Capital Market Supervisory Agency is now vested in the Financial Services Authority.

f. Minister of Finance

According to the interpretation of Article 2, paragraph 5 of the Indonesia Financial Ruin Law 2004, the Minister of Finance possesses the power to initiate financial ruin proceedings against debtors who are affiliated with insurance employers, reinsurance organisations, pension funds, or state-owned corporations operating in the public sector. The necessity of this provision is grounded in the developmental aspect of fostering public trust in insurance or reinsurance enterprises as both risk management institutions and public fund management institutions. The exclusive authority to initiate insolvency proceedings on behalf of pension funds lies with the Minister of Finance. The inclusion of this provision is vital in order to establish a sense of trust among the general public about pension funds. It is important to consider that pension funds oversee substantial sums of public funds, which represent the entitlements of numerous participants.

2. Parties That Can Be Declared Bankrupt

In accordance with Article 2 of the Indonesian Bankruptcy Law of 2004, any legal entity can be declared bankrupt by the Commercial Court provided they meet the criteria outlined in Article 2 of the same law. The following are the parties that can potentially be declared bankrupt by the Commercial Court: ([Nating, 2002](#)).

- a. Individuals, regardless of marital status (married or unmarried), are eligible to be declared bankrupt by the Commercial Court. In cases where a bankruptcy declaration application is submitted by a married individual debtor, the application requires the consent of the spouse, unless there exists a preexisting agreement regarding the separation of assets.
- b. Legal entities, including but not limited to Limited Liability Companies, Regional Companies, and other associations that encompass legal entities within their structure.
- c. The inheritance of a deceased individual can potentially be declared bankrupt if, at the time of their passing, the deceased was unable to meet their financial obligations or if the inheritance left behind is insufficient to cover their outstanding debts.
- d. The Bankruptcy Law does not necessitate that the bankruptcy petition for both the Parent Company (Holding Company) and its subsidiaries

- must be combined into a single document. In addition to the option of submitting a consolidated application, it is also permissible to file separate applications for each entity independently.
- e. Debt guarantee, also known as borscht, is an agreement in which a third party, for the advantage of the creditor, agrees to fulfil the debtor's obligations if the debtor in question is unable to do so
 - f. The Bankruptcy and Suspension of Obligations for Payment of Debt Laws make a clear differentiation between bank debtors and non-bank debtors. This distinction primarily pertains to the parties eligible to initiate a bankruptcy declaration. In the case of a bank debtor, only Bank Indonesia is authorized to seek a bankruptcy declaration. This specific arrangement arises due to the fact that banks hold public funds that require safeguarding.

3. Execution of Assets Owned by Bankrupt Debtors

The structured creditors principle in bankruptcy law establishes a framework for classifying creditors into three distinct levels: preferred, concurrent, and separate. According to the Guarantee Law, a separatist creditor is characterised as a creditor possessing a collateral right and possessing the legal power to enforce the collateral in the event of debtor default or bankruptcy declaration. Bankruptcy Law acknowledges the creation of a secured institution to provide creditors with legal certainty and protection for their substantial collateral rights to enforce collateral assets, following the designation of the debtor as bankrupt by the Commercial Court.

Article 55 of the Indonesia Bankruptcy Law 2004 ensures the legal entitlement to carry out the execution of the Separatist Creditors. In addition to these provisions, the right to execute a Separatist Creditor is regulated in the Material Guarantee Law, among others, it is regulated in Article 21 of Indonesian Land Mortgage Law 1996, which states that "If the mortgagee is declared bankrupt, the right *holder dependents remain authorized to exercise all the rights obtained according to the provisions of this law*". Furthermore, Article 27 of the Indonesian Fiduciary Law 1999 governs the power to execute Separatist Creditors with Fiduciary Rights which states that "The *priority right of the fiduciary recipient is not deleted due to bankruptcy and/or liquidation of the fiduciary giver*".

The execution process as it pertains to Bankruptcy Law exhibits inherent distinctions from execution in a broader context. The reason for this phenomenon can be attributed to the specific provisions outlined in the Indonesian Bankruptcy Law of 2004, which are encompassed within Article 1131 and Article 1132 of the Indonesian Civil Code. The term "civil" refers to matters pertaining to the organisation and functioning of society, particularly The Indonesian Bankruptcy Law of 2004 is a comprehensive legislation that encompasses both substantive and procedural aspects of bankruptcy. Consequently, there is minimal disparity in the implementation of bankruptcy asset execution for debtors who have been officially declared bankrupt by the commercial court.

The initial step in the process involves the examination of the assets belonging to the Bankrupt Debtor's collection by the Bankruptcy Board. The Curator will then proceed to distinguish between the assets that pertain to the Separatist Creditor and those that pertain to the Preferred Creditor. In accordance with the definition of objects as stipulated in Article 499 of the Civil Code, objects refer to entities that possess the potential to serve as legal subjects and encompass goods that are capable of being owned and rights that are safeguarded by legal provisions. Consequently, objects that can be substantiated as being under ownership can be utilised as subjects of execution within the framework of the Bankruptcy Law regime.

The legal principle that Separatist Creditors have the authority to enforce collateral objects, subject to certain conditions such as the absence of a prior bankruptcy, is reinforced by Article 55 Paragraph 1 of the Indonesian Bankruptcy Law 2004. However, it is important to note that the Bankruptcy Law also addresses the waiting period or suspension of asset execution for a Bankrupt Debtor. The suspension of the right to execute creditors is considered separatist, as stipulated in Article 55 Paragraph 1 of the Indonesian Bankruptcy Law 2004. According to this provision, the suspension lasts for a maximum duration of 90 (ninety) days, commencing from the day when the decision about the bankruptcy statement is issued. The purpose of this initiative is to enhance the likelihood of attaining peace, maximise the assets involved in bankruptcy cases, or facilitate the curator in effectively carrying out their responsibilities.

Despite the limitations imposed on Separatist Creditors regarding their ability to exercise execution rights, it is important to note that these restrictions do not extend to Curators. Specifically, Article 56, Paragraph (3) of the Indonesian Bankruptcy Law 2004 grants Curators the freedom to engage in the settlement and management of Bankruptcy assets that fall under the ownership of the Debtor. This includes the ability to sell or otherwise dispose of movable assets that are under the control. The limitation on the Bankruptcy Assets available for sale by the Curator pertains specifically to inventories and/or moveable objects, despite the presence of collateral rights encumbering said assets.

Discussion

Auction as One of the Execution Mechanisms of Assets Owned by Bankrupt Debtors to Protect Creditors in Executing Bankrupt *Boedel*

Transactions for the sale of goods in a given country typically occur through two primary methods: conventional sales and auctions. Conventional sales are commonly conducted by the general public, while auctions involve open and oral bidding, or in more advanced economies, are referred to as auctions (Soemitro, 1988). The Auction Law in Indonesia is formulated with consideration to the respective interests of all parties directly engaged in the auction process. Interest, in the context being discussed, can be characterised as a claim made by a person or a collective

entity, which is anticipated to be satisfied and supported by the implementation of legal regulations. The primary purpose of the law is to safeguard the welfare and concerns of the broader society.

The curator's assortment of insolvent estates might be sent to bankruptcy liquidation through the utilisation of auctions, which is regarded as the most secure approach. The precise regulation of the term "auction" is not explicitly outlined within the provisions of the Civil Code. However, its meaning is encompassed inside an agreement that falls outside the purview of the Civil Code. The regulation of auction sales is governed by the regulations pertaining to the purchase and sale transactions, as stipulated in Article 1319 of Book III of the Civil Code and it reads like: "All contractual arrangements, regardless of their specific nomenclature, are subject to overarching regulations. In the Indonesian Civil Code, Article 1319 establishes a distinction between agreements that are explicitly stated and those that are anonymous in nature. The definition of Article 1457 under the Civil Code is as follows: The act of buying and selling can be characterised as a contractual arrangement wherein one-party consents to transfer ownership of an item, while the other party agrees to remunerate the predetermined amount as mutually agreed upon.

The auction encompasses the constituent components outlined in the definition of the transaction of buying and selling. These components include the presence of legal entities, specifically the seller and the buyer, who engage in the auction. Furthermore, the auction necessitates the establishment of a mutual agreement between the seller and the buyer concerning the goods and their corresponding prices. Consequently, the auction engenders rights and obligations that materialise between the seller and the buyer. Auction sales possess distinct attributes and qualities, yet their foundation remains rooted in the principles of the Civil Code pertaining to the act of purchasing and selling. Consequently, auction sales must adhere to the fundamental tenets and overarching principles enshrined within civil law, as explicitly affirmed in Article 1319 of the Civil Code. The Civil Law Act is a legislative statute that pertains to civil law matters.

The legislation pertaining to auctions are outlined in the Indonesian Minister of Finance Regulation on Auction Implementation Guidelines. This regulation stipulates that auctions serve as a vehicle for the sale of products. Public auctions are events where individuals can participate by submitting written or oral bids, with the intention of obtaining the highest possible price. These auctions are typically preceded by an announcement to inform potential participants. Based on the aforementioned comprehension, it may be inferred that auctions exclusively pertain to public sales, excluding tender auctions or job contracting auctions.

Conclusion

The primary objective of this research project is to examine the legal safeguards available to creditors during the administration of bankruptcy

estates, as stipulated by bankruptcy legislation. Additionally, the study aims to evaluate the efficacy of the existing legal framework in providing enough protection for creditors. The research employed a qualitative methodology in conjunction with the normative juridical approach. Based on the aforementioned analytical investigation, it can be inferred that the safeguarding of creditors' rights in the administration of bankruptcy estates is accomplished via the utilisation of auction mechanisms. In this particular instance, the court has declared the debtor bankrupt, resulting in the initiation of an auction for the debtor's assets. The auction method represents a legally established safeguard for creditors. Nevertheless, during the execution of the auction, it is imperative to adhere to many legal frameworks, including the Civil Code and the Minister of Finance's Regulation on Auction Implementation Guidelines. The purpose of this measure is to ensure that the auction process maintains a focus on the principle of legal certainty.

Recommendations

Based on the preceding discourse, examination, and findings, it is evident that there exists legal safeguarding for creditors during the implementation of bankruptcy assets; nonetheless, certain modifications are required. Additionally, it is noted that the auction mechanism needs some enhancements. Based on the findings of the study, the following recommendations have been identified.

1. This study proposes that policymakers should consistently take into account the regulations governing the liquidation of bankruptcy assets using an auction mechanism. This approach is aimed at establishing a framework for maintaining legal coherence. Furthermore, while safeguarding the legal rights of creditors remains crucial, it's also important to factor in the legal rights of debtors, even if the debtor is deemed financially challenged due to their status as a party undergoing bankruptcy proceedings.
2. In order to facilitate execution procedures, it is essential to categorize various types of collateral objects and establish guidelines for executing objects that fall outside the scope of the bankruptcy estate. This involves creating a framework for executing such objects and their classification, ensuring the smooth progression of bankruptcy execution processes.
3. The legislative bodies and relevant bankruptcy authorities should focus on ensuring legal certainty and consider making amendments to the auction procedures that could have a positive impact on this issue.
4. Policymakers should carefully monitor the situation and formulate policies accordingly to address the specific circumstances of the case.
5. Institutions should be established to oversee the enforcement of these regulations and ensure compliance with the required laws in

bankruptcy cases. These institutions would be responsible for verifying whether the appropriate regulations and laws are being adhered to, in accordance with the specific requirements of each case.

Implications

Theoretical Implications

The present research investigation possesses significant theoretical ramifications. This research paper aims to contribute to the current literature by discussing the legal protection afforded to creditors in the execution of bankruptcy estates, as dictated by bankruptcy law. Furthermore, this comprehensive analysis contributes to the existing body of knowledge by examining the intricate aspects and regulations pertaining to the legal safeguarding of creditors within the context of bankruptcy legislation. Additionally, the legal protection model was examined, representing a noteworthy contribution to the existing literature due to the limited number of research studies that have explored this topic in such depth.

Practical Implications

In addition to the aforementioned theoretical consequences, this research study also encompasses practical implications. This research paper has examined the phenomenon of business bankruptcy, elucidating several rules and regulations pertaining to this matter, as well as the auction system. Consequently, acquiring a comprehensive understanding of bankruptcy is highly advantageous for businesses. The provision of information regarding the rights and obligations of debtors and creditors in the context of corporate bankruptcy can be mutually advantageous for all parties involved. Additionally, the document elucidates the legal framework and regulatory measures that serve to safeguard the interests of creditors. This information can provide valuable assistance to legislative bodies responsible for bankruptcy or auction matters, enabling them to gain insight into existing gaps and subsequently revise regulations and legislation as necessary. It would be advantageous for the government to get a comprehensive understanding of the mechanisms of auctions and bankruptcy matters that necessitate consideration. By doing so, the government may incorporate this knowledge into their decision-making process and implement effective strategies. The findings of this study hold significant implications for policymakers, as they provide valuable insights for evaluating the efficacy of current auction-related measures. This will empower them to formulate policies based on their evaluation of various systems. This will also prove beneficial to the broader population, as it will enhance their comprehension of the concept of bankruptcy and the mechanics of auction processes, in addition to providing insights into the legal safeguards afforded to creditors. This study will also contribute to the existing body of research by providing valuable insights into the legislative framework pertaining to creditor protection in bankruptcy. Conducting further research investigations will be facilitated by their awareness of existing work in the field and identification of future research needs.

Limitations and Future Recommendations

Limitations

Despite possessing significant theoretical and practical consequences, like to numerous other research projects, this particular study is not exempt from certain limitations. This study only focused on the analysis and identification of the legal safeguards provided to creditors during the administration of bankruptcy estates, with a specific emphasis on bankruptcy legislation. This study did not present any empirical evidence. This study exclusively formulates a theoretical framework without employing any statistical methodologies. The present study exclusively employed a qualitative research methodology, adopting interpretivism as the underlying research philosophy and employing an inductive research strategy. The scope of this study was limited to the examination of rules and protection models in Indonesia. Therefore, caution should be exercised when attempting to generalise the findings. Moreover, there is a possibility of bias. Furthermore, it should be noted that the present study exclusively employed the normative juridical approach as the primary methodology. However, it is worth considering that alternative methodologies may yield enhanced and more efficacious outcomes. The scope of this research has been limited to the context of Indonesia, with discussions centred around its findings. However, it is important to acknowledge that the outcomes of this study may vary in different countries, owing to variations in legal systems and corporate cultures.

Future Recommendations

Based on the methodology and design employed in this research study, some recommendations for future research may be made. The research should also provide a comprehensive analysis of the responsibilities of debtors throughout insolvency and bankruptcy proceedings, in order to gain a thorough understanding of their role and engagement in these circumstances. It is recommended that the researchers do empirical investigations in order to facilitate the use of statistical analysis and the acquisition of empirical evidence. Additionally, it is imperative for research to assess the various ideas pertaining to creditor protection legislation in instances of bankruptcy in order to ascertain the presence of empirical evidence supporting these theories. Additional investigation is warranted to explore the objective nature of this subject matter by employing the quantitative methodology in conjunction with the deductive approach and adopting a research philosophy rooted in positivism. Furthermore, it is recommended that future research includes a comparison review of protection laws and their implementation across various nations. This might involve comparing Indonesian legislation with those of other countries in Asia or Europe to determine potential variations in outcomes. It is recommended that researchers undertake additional research investigations employing the empirical juridical approach and the sociolegal method in order to obtain more efficacious outcomes. In order to gain insights into the legal frameworks governing creditor protection in

bankruptcy proceedings, it is recommended that future research endeavours focus on conducting empirical studies in European nations. Such investigations would aim to elucidate the specific rules, regulations, and laws adhered to by these countries in safeguarding the interests of creditors.

References

- Ali, Z. (2009). *Legal Research Methods*. Jakarta: Sinar Graphic.
- Asikin, Z. (2000). *Bankruptcy Law and Suspension of Payments in Indonesia*. Jakarta: PT. Raja Grafindo.
- Birney, P. M., & Smith, A. H. (2022). Litigation-Settlement Financiers, a Secured Claim Might Be Illusory. *American Bankruptcy Institute Journal*, 41(3), 28-49. Retrieved from <https://www.proquest.com/openview/747b70857a643d291e458dfefef9ba4d>
- Bose, U., Filomeni, S., & Mallick, S. (2021). Does bankruptcy law improve the fate of distressed firms? The role of credit channels. *Journal of Corporate Finance*, 68, 101836. doi: <https://doi.org/10.1016/j.jcorpfin.2020.101836>
- Damaraju, N. L., Barney, J. B., & Dess, G. G. (2021). Do stringent bankruptcy laws always deter entrepreneurial activities? A study of cultural influences. *Entrepreneurship Theory and Practice*, 45(2), 418-439. doi: <https://doi.org/10.1177/1042258720913017>
- Huang, C. (2022). China's practical wisdom: Assumption of liability for endangering public health in bankruptcy proceedings—A case study of the Changchun Changsheng Biotechnology vaccine incident and the Johnson & Johnson baby powder incident. *Frontiers in Public Health*, 10, 1003330. doi: <https://doi.org/10.3389/fpubh.2022.1003330>
- Kansil, C. S. T. (2002). *Fundamentals of Indonesian Commercial Law Knowledge*. Jakarta: Sinar Graphic.
- Moertiono, R. J. (2021). Perjanjian Kredit Pemilikan Rumah dalam Perspektif Teori Perlindungan Hukum. *All Fields of Science Journal Liaison Academia and Society*, 1(3), 252-262. doi: <https://doi.org/10.58939/afosj-las.v1i3.109>
- Nating, I. (2002). *Bankruptcy Law*. Jakarta: PT Pustaka Utama Grafiti. Retrieved from [https://ishrathusain.iba.edu.pk/speeches/financialSector/2002/Bankruptcy law.pdf](https://ishrathusain.iba.edu.pk/speeches/financialSector/2002/Bankruptcy%20law.pdf)
- Rasji, R., Saly, J. N., & Widyastuti, S. (2023). Juridical Analysis Of Creditor Protection Related To The Transfer Of Property In Bankruptcy Proceedings By Debtors. *Journal Research of Social Science, Economics, and Management*, 3(1), 22-35. doi: <https://doi.org/10.59141/jrssem.v3i1.505>
- Sadikin, N. C. (2022). Legal Protection for Creditors Holding Mortgages in the Execution of Bankrupt Assets (Boedel) Against Confiscation of Criminal Cases. In *UiTM International Conference on Law & Society 2022* (pp. 186-189). Perpustakaan Negara Malaysia. Retrieved from <https://www.researchgate.net/profile/Akbar-Kamarudin/publication/369973700>
- Sjahdeini, S. R. (2016). *Bankruptcy Law: Understanding Law Number 37 of 2004 concerning Bankruptcy*. Jakarta: Prenadamedia Group.

- Soemitro, R. (1988). *Legal and Yurimetric Research Methods*. Jakarta: Ghlmia Indonesia.
- Staszkiwicz, P., & Morawska, S. (2019). The efficiency of bankruptcy law: evidence of creditor protection in Poland. *European Journal of Law and Economics*, 48(3), 365-383. doi: <https://doi.org/10.1007/s10657-019-09629-2>
- Stef, N. (2023). Bankruptcy voting process and corporate reorganization. *Bulletin of Economic Research*, 75(2), 508-524. doi: <https://doi.org/10.1111/boer.12368>
- Stef, N., & Dimelis, S. (2020). Bankruptcy regime and the banking system. *Economic Modelling*, 87, 480-495. doi: <https://doi.org/10.1016/j.econmod.2019.12.012>
- Sujatmiko, B., & Suryanti, N. (2017). Legal Protection for Investors in Public Companies Declared Bankrupt From a Bankruptcy Law View. *Bina Mulia Hukum*, 2(1), 15-25. doi: <https://doi.org/10.23920/jbmh.v2n1.2>