



Legal Responsibility Of Cooperative Management And Supervisors For PKPU Bankruptcy Decision Number 37/Pdt. Sus-PKPU/2021/PN Niaga Sby

Chamdani¹, Nobella Indradjaja², Budi Endarto³ Suwarno Abadi⁴, Joko Ismono⁵

^{1,2,3,4,5}Universitas Wijaya Putra, Surabaya, Indonesia

Email : chamdani@uwp.ac.id, 21041001@student.uwp.ac.id,
budiendarto@uwp.ac.id, suwarnoabadi@uwp.ac.id, jokoismono@uwp.ac.id

Abstract

The purpose of this research is to understand the legal consequences of the dissolution of cooperatives that are declared bankrupt. In addition, this article discusses much more, related to the responsibilities of cooperative management for the dissolution of cooperatives, declared bankrupt. The method used in this study is a normative legal research method with a conceptual and legal approach with primary and secondary legal sources. The results of this study indicate that cooperatives have filed for bankruptcy because of their financial condition and their property is generally confiscated and cooperatives can be declared bankrupt and terminated by a decision by the government and a commercial judge. The legal consequences drawn by the Management of cooperatives for the liquidation of cooperatives that are declared bankrupt include: Bankruptcy is carried out at a meeting of cooperative members and lawsuits, Permission to complete the dissolution in other matters remains valid Dissolution of cooperatives by government decision, and there is no authority from the management to carry out dissolution . The management of the cooperative, in this case, is responsible individually or jointly for the losses of the cooperative where the cooperative management clearly fulfills the obligations of the cooperative management who acts intentionally or negligently.

Keywords: Bankruptcy, cooperative, responsibility





1. INTRODUCTION

Indonesia is a developing country and it happens all the time now Development activities are carried out in all existing sectors that require development, one of which is in the economic field because the determining factor The welfare of the Indonesian people comes from the economic sector. and The goal of national economic development is the realization of Indonesia's Political and Economic sovereignty. For example, The economic development of the country is carried out through the formation of cooperatives.

That cooperatives are also included in the existing part in a national economic system, which in this case means that in running their business, this cooperative contributes to the achievement of an economy that in this case can be more advanced and can also prosper the general public, both for individuals who have become members of the cooperative itself and also for other communities. This cooperative occupies a very high position in an economic system in Indonesia. That this matter is not seen only in an Article 33 of the Constitution of the Republic of Indonesia year, and also in an Article 4 of Law No. 25 of 1992 concerning Cooperatives. That from the explanation of Article 33 of the 1945 NRI Constitution in it states that a cooperative is clearly stated as a company incorporated which is also in accordance with several economic systems which in this case want to be developed in Indonesia. Explanation of Article 4 of the Law on Cooperatives, which also states that a cooperative also has a function to create, develop, and also strengthen a potential resilience which in this case is contained in a national economic system that in carrying out its business together is based on the principle of kinship and also economic democracy.

Can be explained about cooperatives reviewed etymologically referred to as organizations that are also engaged in the economic field consisting of several individuals and or legal entities and also the private sector which in this case is given the flexibility to be able to join and also leave as a member of the cooperative, this is regulated in accordance with the Law on Cooperatives, and also cooperates in accordance with several family principles in carrying out a business in order to achieve a welfare rather than its own members.

Cooperatives are now flapping their wings in all areas in relation to efforts intended to satisfy human needs Evolving and unlimited, especially when it comes to following the trend of liberalization of the increasingly complex global Economic system. Cooperatives as legal entities engaged In economics, cooperatives can experience economic ups and downs This puts cooperatives in a win-loss situation. The cooperative case of profit, can ensure that the cooperative can go ahead and move forward, but if something happens, there will be





problems The cooperative will be in a loss situation and cannot bear the loss. Make it bankrupt or unresolved.

When the cooperative is in a state of deficit and can no longer pay off debts or declare bankruptcy, in this case it can have two options that can be done to deal with the problems faced by decision of the General Assembly or by government decree such as Decree No. 17 of 1994 concerning the dissolution of cooperatives The government (hereinafter referred to as cooperative dissolution of PP) can also be dissolved Based on the Insolvency and Suspension Law No. 37 of 2004 Payment Obligations Debt (hereinafter referred to as the KPKPU Law). Insolvency is a Condition in which the debtor has difficulty in making payments or in the financial difficulties of his debt so that the court decides to declare bankruptcy Matters in the general judicial environment, namely the commercial court, as the debtor does not pay off his debts Then, the debtor's property Filed with the creditor in accordance with the relevant regulations.

A cooperative can be declared bankrupt if it has two or more debtors and is unable to pay at least one debt within the period to be paid and can be sued by creditors according to the KPKPU law. The bankruptcy petition must be filed in one of the commercial courts listed above. At the request of oneself or at the request of the creditor. According to Article 1 Paragraph (1) of the KPKPU Law, insolvency is essentially the general seizure of all property of the bankrupt debtor that has been removed or accounting is carried out by a curator supervised by a supervisory judge. If the cooperative has not been declared bankrupt by the Commercial Court, then the cooperative still exists. claimed to be able to pay the existing debt and to be paid, but after a decision is made on the matter of Insolvency by the commercial court, all the property of the cooperative becomes the property of the bankrupt It will be used to pay off the debt of the Cooperative

The dissolution of this cooperative will certainly have consequences by all institutions included in the cooperative, especially the cooperative management. Co-management tasks take steps and initiatives that benefit cooperatives, such as organizational management and cooperatives Working together. When dealing with cooperatives, even if the cooperative is dissolved They cannot pay off their debts, so they have to manage the cooperative. This is a huge responsibility. Continuing the explanation above, It is interesting to discuss and study the legal implications regarding the Responsibility of Cooperative Management for the Dissolution of Cooperatives The title of this article is " Accountability of Cooperative Management's Answer to Bankruptcy Cooperatives"

\





2. RESEARCH METHODS

The research method used is normative legal research historical and legal approaches. The primary legal material in this study is the law related to Perkoprasian in Indonesia along with the regulations that support its existence and operation. When secondary legal material is sourced from books, journals and other related scientific references to the issue under investigation. Based on the use of primary and secondary legal sources in normative legal research, or as follows: discussed relevant issues. 2. Secondary materials related to law refer to law books, legal journals, legal documents, legal expert opinions on research subjects published in the mass media, related laws and regulations, and internet encyclopedias.

Data collection is carried out using data analysis techniques on legal materials used to obtain data and information as follows. Normative studies include several things such as legal basis, legal system, legal approval rate, legal comparison and legal history. The writing presented in this article uses data processing and analysis techniques with qualitative analysis. At this stage, data processing takes place and is collected, researched and identified from the results of the study. The data is selected and sorted systematically so that it can be used as a reference to conduct analysis. The data processing method in this study was obtained by a systematic arrangement.

3. DISCUSSION

3.1 Accountability of Cooperative Management's Answer to Bankruptcy Cooperatives

In this case, a cooperative is also a legal entity that has been born because of the existence of a law and also needs an existence, so in this case it is often also referred to as a legal entity. That the Cooperative also gets its status called incorporated after the issuance of a deed of establishment regarding the cooperative which in this case is ratified by the Minister of Cooperatives and MSMEs

It is stated in Article 17 of the Cooperative Law which states that a member of a cooperative is an owner who in this case is also referred to as a customer of a cooperative member, who in this case also has an obligation to be able to comply with all the rules which in this case are stated in the AD / ART and members must apply a decision which in this case has been approved in a meeting of cooperative members or can be called RAT, that members of the cooperative in this case must also participate in some activities that are also carried out by a cooperative, as well as to increase and also strengthen the value of togetherness





between all and also as organs of the cooperative padder which in this case is based on the principle of kinship. Also members must carry out their obligations, members of the cooperative in this case also have an inherent right, namely by attending, expressing opinions, and also contributing a right to vote at a meeting of members, members also have the right to be elected and or choose to be able to become an administrator and or a supervisory body rather than a cooperative, that members of the cooperative also have the right to be able to request the holding of a meeting of members in accordance with the rules set forth in the articles of association in the cooperative. That Article 21 of the Cooperative Law also explains that it is included in a cooperative device which includes meetings of members, administrators, and also supervisory bodies.

Liability is a state in which a person and or legal entity is obliged to bear all the consequences of the actions he performs. In the field of society, the principle of accountability This principle can be viewed as a juridical act that distinguishes that means, legal and unfounded liability for the act. In the event of an agreement that may cause harm to the parties and existing liability for contractually agreed but desirable Service compliance obligations or negligence in the performance of the services specified in the contract;

Bhwa The dissolution of a cooperative which in this case has been declared bankrupt will give a responsibility that applies to all the apparatus that in this case exists in a cooperative and specifically to the board of directors of the cooperative, and moreover which in this case causes a loss that has occurred to a cooperative due to negligence and or intentionality of the cooperative management in performing a task. In the KPKPU Law, which is precisely in Article 122 which confirms that if what is declared bankrupt is a legal entity, all obligations that are also related to an insolvency settlement are the full responsibility of the management.

That in this case it is also stated that a legal entity concerning a cooperative in a state of insolvency then who can be responsible and have an obligation in terms of resolving all affairs concerning insolvency is the entire management of the cooperative. In a cooperative organization that has been incorporated in this case the management of the cooperative as a device is given the authority to be able to carry out an act and also legal remedies that can represent and also on behalf of a cooperative, the management in this case also has a full responsibility for the whole related to an activity rather than the development and management of a cooperative and also in terms of implementing member meetings and also member meetings are extraordinary. When a cooperative needs to win A person who suffers





losses due to bankruptcy and others, or a person who is obliged to bear the loss It is regulated in Article 34 of the Cooperative Law which basically stipulates that:

- a. The management as a whole and or individual is required Also bear all losses of the legal entity of the cooperative if the Loss occurs due to management actions Intentional or negligent in carrying out duties.
- b. Reimbursement of losses suffered by cooperatives and cooperative administrators If it is found that it has deliberately violated all or part of the rules In the case of cooperatives, the prosecutor's office can play an active role in joint management by going through legal channels

That in the decision of PKPU NUMBER 37/Pdt.Sus-PKPU/2021/PN Niaga Sby, the disposer of the cooperative was declared valid and convincingly guilty in bankruptcy of the PKPU cooperative which had been decided by the Surabaya Commercial Court in this case homologation. However, the development of this peace agreement was canceled by the Commercial Court at the Central Surabaya District Court and declared the PSC bankrupt with all its legal consequences that when a legal entity goes bankrupt, it is likely that the assets of the cooperative are not enough to pay off the debts that must be paid to the creditor, if so, the funds that should be received in full by the creditor are likely to only receive the same compensation once, the creditor in this case will be greatly harmed. ¹

The regulation on Cooperatives in the provisions of Article 34 which explains that all losses which in this case have been suffered by a cooperative will be entirely borne by the management of the cooperative and will not impose on all members of the management of the cooperative, that losses can only be charged and also borne by the management which in this case intentionally and resulting in a loss from the cooperative. That If an administrator can prove that a loss incurred to the cooperative is not due to the negligence he has committed and also that the administrator may also prevent from the occurrence of an omission to some of the duties that have been performed then the administrator may be relieved of the responsibility he will receive to be able to reimburse from the losses to be suffered by a cooperative which in this case has been declared bankrupt.

It is natural if it relates to the dissolution of a cooperative that has been declared bankrupt. The decision on the dissolution of the cooperative is based on the decision of the general meeting or, as determined by the government, the responsibility of the partner It is

¹ Verdict PKPU NUMBER 37/Pdt.Sus-PKPU/2021/PN Niaga Sby





also expressly regulated in Article 34 of the Cooperative Law. again, When the union is dissolved due to the negligence of the union administrator in carrying out its obligations so that the cooperative cannot When the debt is due, they have to pay the debt, suffer heavy losses, and the cooperative must go bankrupt. Thereafter Responsibility for the incident lies with the administration of the cooperative Indemnification for all losses suffered by the cooperative in addition to the cooperative management may also appeal to the public prosecutor. when deciding who The responsibility to compensate for the loss of cooperation cannot be achieved, the last path that all cooperative administrators must go through is legal.

The responsibilities of the cooperative management are regulated in "Article 34 of the Cooperative Law which states that the Management, either jointly, or individually, bears the losses suffered by the Cooperative, due to actions committed intentionally or negligently (paragraph 1). And besides the compensation of such damages, if the act is done intentionally, it does not rule out the possibility for the public prosecutor to carry out prosecution (paragraph 2)

If reviewed from the Law on Cooperatives to a responsibility of the management that can result in the dissolution of the cooperative which in this case is declared bankrupt, which is also decided through a decision from a meeting of members and or a decision from the government, namely a management who is jointly and or individually obliged to be able to calculate the overall losses that can be experienced by the cooperative, Moreover, if the administrator can be proven and has committed a deliberate and or negligence in carrying out his duties, it can also be legally prosecuted by a public prosecutor.

4. CONCLUSION

The dissolution of a cooperative declared bankrupt has Legal Repercussions to the Management of the Cooperative, Legal Consequences of the Dissolution of the Cooperative By the decision of the Panel of commercial judges, the management of the cooperative has the right to Responsibility for the insolvency, but still has the opportunity to represent the cooperative on behalf of the cooperative. submit a formal request for dissolution to the government and creditors However, the dissolution of the cooperative by decision of the government carries consequences Various laws relating to the management of cooperatives are organized by the cooperative management Restrictions on the Implementation of Rights and Obligations When Applying for a Letter of Dissolution of cooperatives are the right of the government that has the power. After being declared bankrupt, the cooperative no longer functions as it used to. The Board has full responsibility for the liquidation of the cooperative





declared bankrupt Joint and or own joint or separate management Because the cooperative must compensate the members who have experienced bankruptcy for acts committed intentionally or negligently. this is regulated in accordance with Article 34 of the Cooperative Law. Administrators who are deemed negligent and result in significant losses To the bankruptcy of the cooperative, may also be sued in the commercial court

REFERENCE

- Asmara, T. T. P., Tarsisius M., and Bambang D. N. (2020).The responsibility of the cooperative owner at the time of bad debts is reviewed from the theory of legal certainty". IUS Journal of Law and Justice Studies 8, no. 1.: 109-126
- Ismayani, I. (2020).Accountability of Tanjung Balai City Civil Service Cooperative Management in Cooperative Member Meeting. TECTUM JOURNAL 2, no. 1.: 101-111
- Government Regulation of the Republic of Indonesia Number 17 of 1994 concerning the Dissolution of Cooperatives by the Government (Statute Book of the Republic of Indonesia of 1994 Number 24, Supplement to the State Gazette of the Republic of Indonesia Number 3549).
- Law of the Republic of Indonesia Number 37 of 2004 concerning Insolvency and Postponement of Debt Payment Obligations (Statute Book of the Republic of Indonesia of 2004 Number 131, Supplement to the Statute Book of the Republic of Indonesia Number 4443).
- Law of the Republic of Indonesia Number 25 of 1992 concerning Cooperatives (Statute Book of the Republic of Indonesia of 1992 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 3502).
- Marzuki, P. M. (2016) Legal Research Revised Edition. (Jakarta: Prenandamedia Groups,
- Munir, F. , (2010) Acts Against the Law Contemporary Approach, (Bandung: Citra Aditya Bakti
- NA, I. A., Paramita P., and Siti M. (2016).The Responsibility of the Cooperative Management for the Dissolution of Cooperatives in Indonesia is Reviewed from Law No. 25 of 1992. Diponegoro Law Journal 5, no. 3: 1-10.
- Sari, N. L. A. S. H., AA Sri Indrawati, and Suatra Putrawan. (2019) Settlement of Bad Debts at the Savings and Loans Cooperative by Artha Sedana and Ksp. Wirartha Utama in the city of South Denpasar. Journal of Legal Sciences 7, no. 8: 1-17.
- Constitution of the Republic of Indonesia of 1945.
- PKPU Decision NUMBER 37/Pdt.Sus-PKPU/2021/ PN Niaga Sby

