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Simple Verification Principles in Bankruptcy Procedures in Commercial Court of Indonesia

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Abstract

The purpose of this paper is to explain how the verification of the principles of bankruptcy procedures for an institution and an individual must be carried out in a commercial court in Indonesia. A commercial court is a special court that handles bankruptcy requests for a trade. This paper uses a descriptive method with its main source, namely Law number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. Law number 37 of 2004 annulls some of the previous bankruptcy regulations, including the regulation which states that district courts no longer have absolute ability to examine or terminate bankruptcy. Another change in Law number 37 of 2004 is that the bankruptcy procedure is handled specifically by the commercial court with a different procedure and verification principle that is simpler when compared to the previous bankruptcy procedure.

Keywords: *Bankruptcy Procedures; Commercial Courts; Bankruptcy Verification Principles*

Introduction

A commercial court is a special court established within a district court. The commercial court has the absolute competence to examine and decide on the application for bankruptcy and postponement of the obligation to pay debts and other business.

The procedure or procedure for bankruptcy in a commercial court begins when the request for bankruptcy is registered until the verdict of bankruptcy is handed down. Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations to make changes to the procedure of bankruptcy by regulating the provisions concerning the time limit for case investigation.

Bankruptcy procedures in commercial courts have several advantages and disadvantages compared to district courts that have previous absolute competencies. These advantages include arrangements regarding the time limit for examination in court and the implementation of simple evidence. Some of these advantages have the effect that bankruptcy proceedings in commercial court are now recognized to be more effective compared to previous arrangements. Nonetheless, it is generally seen

that there are many weaknesses or deficiencies in bankruptcy procedures in commercial court based on the provisions stipulated in Law Number 37 of 2004. These weaknesses result in bankruptcy procedures as regulated in the current law become ineffective. Some of the weaknesses contained in the bankruptcy procedure based on Law Number 37 of 2004 include the non-stipulation of minimum debt requirements, the large number and complexity of documents that need to be prepared for litigation, the provisions regarding the obligation to submit requests to lawyers and the expensive bankruptcy fees.

Commercial Court in the System of Judicial Power in Indonesia

A commercial court is formed based on the Law of the Republic of Indonesia Number 4 of 1998 junto (jo) Law of the Republic of Indonesia Number 37 of 2004. A commercial court is a special court having the authority to examine and decide upon a commercial case established in a general court environment. According to the Law of the Republic of Indonesia Number 37 of 2004, the authority to examine and decide bankruptcy cases becomes the authority of a commercial court located within the general court.

The establishment of a commercial court is an attempt to reform the bankruptcy laws and regulations in Indonesia. The reforms are intended to embrace court reforms and efforts to resolve bankruptcy cases more quickly after the 1997-1998 economic crisis. Procedure for settling cases in commercial court is different compared to settling bankruptcy cases in district courts. The differences that exist are related to the time limit for case trials, the introduction of the role of supervisory judges, the introduction of the role of ad hoc judges and the possibility of dissenting opinions in commercial court decisions.

Until now, in Indonesia there are five commercial courts, namely the Medan Commercial Court, Semarang, Surabaya, Ujung Pandang and Central Jakarta. The Central Jakarta Commercial Court was formed based on the Law of the Republic of Indonesia of the Republic of Indonesia Number 4 of 1998 in conjunction with the Law of the Republic of Indonesia Number 37 of 2004, while the other four commercial courts were formed based on the Decree of the President of the Republic of Indonesia Number 97 of 1999.

The authority of the Medan Commercial Court is to examine and decide bankruptcy cases in the provinces of North Sumatra, Riau, Riau Islands, Bangka Belitung, West Sumatra, Bengkulu, Jambi and the Special Region of Aceh. The Central Jakarta Commercial Court has the authority to examine and decide bankruptcy cases that occur within the provinces of the Special Capital Region of Jakarta, West Java, Banten, South Sumatra, Lampung and West Kalimantan. Semarang Commercial Court's power is to examine and decide bankruptcy cases that occurred in the province of Central Java and Yogyakarta Special Region. The Surabaya Commercial Court examined and decided bankruptcy cases in the provinces of East Java, South Kalimantan, Central Kalimantan, East Kalimantan, Bali, West Nusa Tenggara and East Nusa Tenggara. While the authority of the Ujung Pandang Commercial Court is to examine and decide bankruptcy cases that occur in the provinces of South Sulawesi, Southeast Sulawesi, Central Sulawesi, North Sulawesi, Gorontalo, Maluku, North Maluku and West Papua, East Papua and Central Papua (Supreme Court of Indonesia, 2003).

Bankruptcy Procedures in the Commercial Court

1. Conditions for Bankruptcy and No Regulation for Minimum Debt

In the provisions of Law Number 37 of 2004, the requirement for bankruptcy is that the debtor has two or more creditors and does not pay off a minimum of one debt with sufficient time and debts to be collected. Based on these provisions, three things can be formulated to be bankrupt, namely (1) there

must be debt, (2) one of the debts is sufficient time and can be collected, and (3) the debtor has at least two or more creditors (Kurniawan, 2004).

Law Number 37 of 2004,[11] translating debt as an obligation that must be paid or can be paid in the amount of money, whether in Indonesian currency or foreign currency, both directly or existing in the future, arising from the loan agreement or based on the provisions stipulated in the law legislation and which must be paid by the debtor and if not paid gives the creditor the right to demand it from the debtor's property.

The provisions concerning the definition of debt are regulated in the provisions of Law Number 37 of 2004 because in the provisions of the bankruptcy law, prior to the enactment of Law Number 37 of 2004 there were no provisions governing the interpretation of this debt. Therefore, between one court and another translates debt in a different sense. In the case of Jeff Mustoffa Atmaja v. PT Profilindo Intratama Finance, the commercial court translates debt in the broadest sense, that is, every claim of a creditor that manifests as a payment that arises because of a debt agreement. When the Supreme Court of the Republic of Indonesia in the decision to appeal for cassation in the same case translates debt in the narrow sense, that is, debt arising from the debt receivable agreement, namely the principal debt and interest. Then the Supreme Court of the Republic of Indonesia in its decision to request a review (PK) which also in the same case gave the understanding of debt in the broadest sense as the translation of debt in the decision of the commercial court.

The second condition for bankruptcy is that one of the debts is due and must be paid. Debt past due means that debt is the payment term specified in the debt agreement. Debt that has matured as specified in this debt agreement is debt that should be paid. In the decision to request the case review of PT Asnawi Agung Corporation v. PT. Liquidation Team Astria Raya Bank, the Supreme Court of the Republic of Indonesia ruled that the conditions for bankruptcy had been strictly regulated in Article 1 of Law Number 4 of 1998. According to the provisions of this article, the conditions for bankruptcy did not depend on whether the debtor was able to pay its debts but was dependent on whether the debtor has tried to pay its debts that are due to be paid and also depends on the conditions whether he has more than a creditor.

The final requirement for being able to go bankrupt in a commercial court is that the debtor has a minimum of two or more creditors (Sjahdeni, 2002). According to Sjahdeni (2002), a creditor is a person who has a debt bill based on a debt agreement or legal provisions and his debt can be prosecuted in court. In the decision on appeal in the case of PT Liman International Bank v. PT Wahana Pandugraha. The Indonesian Supreme Court ruled that the tax office and the land and building tax office were not included in the category of creditors in bankruptcy. Tax debt is a claim arising under Law Number 6 of 1983 and Law Number 9 of 1994. Both of these laws give tax authorities special authority to carry out direct claims against tax debts outside the interference of the commercial court. Therefore, lawsuits relating to the settlement of tax debts are not included in the bankruptcy procedure in the commercial court.

In Law Number 37 of 2004 there are no provisions on what the minimum amount is. Such provisions should be regulated in the law because the absence of this regulation will be very detrimental to the debtor. Creditors whose debts are small (small) compared to the assets they have and this creditor should be able to pay the debt, because there are no provisions regarding the minimum conditions for the amount of debt will be bankrupt to the court. According to Law Number 37 of 2004, regardless of the amount of debt, if the conditions under Article 1 paragraph (1) of Law Number 37 of 2004 have been fulfilled, then the debtor can be declared bankrupt in court. Creditors with relatively small (small) debt claims can file bankruptcy requests to creditors who are actually able to pay their debts and have assets that are many times more than the debt that must be repaid (Sjahdeni, 1998). In the case of Lee Boon Siong v. PT Prudential Life Assurance,[21] the debtor (PT Prudential) was filed for bankruptcy by one of his

agents named Lee Boon Siong (creditor) to the court because the debtor did not pay the debtor's debt in the amount of 7.2 billion rupiah, even though the assets of the debtor whose company was established in 1848 until December 31, 2003 almost reached 3.6 trillion rupiah.

2. Obligation to Represent Cases to Advocates

Creditors and debtors cannot submit cases of bankruptcy requests themselves to the court. Based on the provisions of the law the applicant is required to represent his case to an advocate, whereas the bankruptcy application filed by Bank Indonesia, the Capital Market Executing Agency (Bapepam) and the Minister of Finance need not be so, because all three are considered to understand issues related to bankruptcy.

The provisions of the provisions regarding the obligation to represent case requests to lawyers certainly lead to increased costs of resolving bankruptcy cases in court. These costs will increase if the commercial court's decision is filed for appeal and reconsideration to the Indonesian Supreme Court. The costs for these lawyers are outside the costs that must be paid to the court which can double the amount when compared with the costs of civil cases in the district court. Therefore, the cost of resolving a bankruptcy case is very large.

According to Law Number 18 Year 2003, What is meant by an advocate is a person who has the right to provide legal services both inside and outside the court as stipulated in the law. The requirements to be appointed as advocates are Indonesian citizens, having a law degree, domiciled in the territory of Indonesia, not a civil servant, minimum age 25 years and have worked in an advocate's office for at least two years. Advocates are appointed by Indonesian Advocates and a copy of their inauguration letter as an advocate must be submitted to the Indonesian Supreme Court and the Indonesian Minister of Law and Human Rights. Specifically for bankruptcy matters, he needs to become a member of the bankruptcy advocacy association which was formerly known as the Indonesian Bankruptcy Lawyers Association (APKI).

3. Requests and Completeness of Bankruptcy Request Documents

Bankruptcy applications can be submitted by creditor or debtor, which can be an individual debtor, limited liability company, foundation or association, partnership or partner, attorney, Bank Indonesia/Capital Market Implementing Agency (Bapepam)/Minister of Finance of the Republic of Indonesia. Dengan dikeluarkannya Undang Undang Nomor 1 Tahun 2013 tentang Otoritas Jasa Keuangan kewenangan Bank Indonesia, Bapepam dan Menteri Keuangan beralih dan harus dengan pertimbangan Otoritas Jasa Keuangan. Oleh karena itu, terdapat perbedaan mengenai permohonan dan kelengkapan dokumen yang perlu dikemukakan bagi tiap-tiap permohonan tersebut (Lontoh and Kailimang, 2001).

Registration of applications must be requested from the head of the commercial court through the court clerk. In at least two days after the request is received, the clerk will deliver it to the head of the court. The president of the court will study the application for bankruptcy and appoint and appoint a panel of judges to examine the case. The Chief Judge will determine the day and date of the case review within three days after the application is registered. The clerk will notify and summon litigants and witnesses (if any) for at least seven days. Case studies will begin within 20 days of the application being registered and can be postponed for at least 25 days.

The court's decision must not be more than 60 days. A copy of the court decision will be submitted by the bailiff to the bankrupt, bankrupt applicant, curator and supervisor of judges at the latest two days after the bankruptcy decision is handed down by the court (Figure 1).

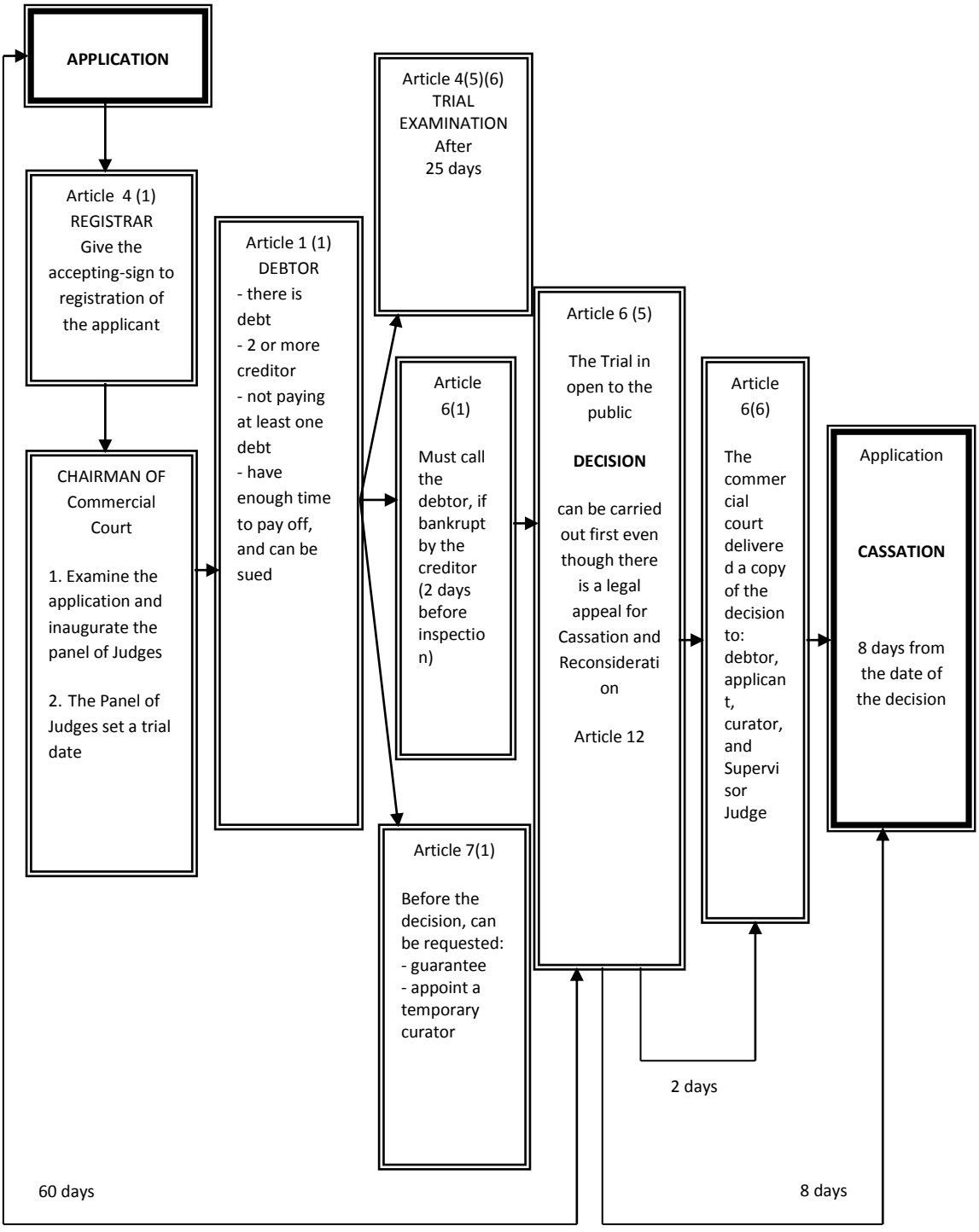

Figure 1. Chart of Procedures for Bankruptcy Requests at the Commercial Court

The application for bankruptcy must be accompanied by documents attached together with the application to the head of court through the court clerk (Commercial Court, 1998). Request letters and documents or other documents must be copied according to the number of parties involved and four copies for the judges who examine and for court records. Documents or copies of documents must be legalized as original documents by the official who has the authority or authorized by the court. Documents or letters made abroad must be translated by an official translator and endorsed by the Indonesian Embassy (KBRI) in that country.

Bankruptcy application submitted by the debtor or creditor with a letter of application that is stamped sufficiently and addressed to the chairman of the court. This request must be represented by an advocate. A copy of the law of a member of law that has been legalized by a court clerk must also be attached to the application.

The request must also be accompanied by documents (Ponto, 2001) i.e., the sign of the business registration if the bankrupt applicant is a creditor, limited company debtor, partnership or partner or Attorney or Bank Indonesia or Minister of Finance or Capital Market Implementing Agency. Individual applicants need to attach valid husband or wife proof of identity (resident card (KTP), passport, driving license (SIM)). For applicants for foundation or association bankruptcy or limited liability companies must enclose a list of companies that have been legalized by the local Trade Service Office no later than one week before the application is registered or the foundation or association registration deed which is by the competent authority no later than one week before the application is registered.

Other documents that must be attached are husband or wife approval for individual debtor applicants, general meeting of shareholders (GMS) for applicants for limited liability companies and the decision of the board of directors who decide to file bankruptcy statements for foundation applicants, in addition, the articles of association and house budget Limited company stairs and foundations must also be attached.

If the applicant is a creditor or Attorney or Bank Indonesia or Minister of Finance or Capital Market Implementing Agency (Bapepam), then the documents arein the form of a loan agreement or other evidence that points to a debt bond (commercial paper, invoices, receipts, etc.) -other) and details of debts that are due not paid must be attached to the application.

If the applicant is an individual debtor or Attorney General's Office or Bank Indonesia or Minister of Finance or Capital Market Implementing Agency, then it is also necessary to attach a list of assets and debt dependents to be paid. When the applicant is a limited liability company, foundation or partner or Prosecutor or Bank Indonesia / Minister of Finance or Capital Market Implementing Agency (Bapepam), it is necessary to attach the latest balance sheet. Other documents that must be attached are the names and addresses of all creditors and debtors. This document is excluded if the applicant is an individual debtor.

Although the number of bankruptcy cases up to 2004 increased compared to the years before the revision of Stb 1905 - 217 jo Stb 1906 Number 348 about Verordening op de Faillissement en Surceance van Betaling Faithful Verordening) (Muljadi, 2001), but the problem of preparing documents at the time the application was filed caused the bankrupt applicant was reluctant to bring his case to court. Likewise, although bankruptcy cases up to 2004 increased (Wijayanta, 2008) compared to the years before the revision of Stb 1905 - 217 jo Stb 1906 -348 te but the number of bankruptcy requests to the court was not as expected.

After the economic crisis, the number of debtors (individuals and limited liability companies) unable to pay debts (bankruptcy) reached thousands (Kesowo, 2001). However, from 1998 to 2004,

bankruptcy cases registered with the commercial court amounted to only 405 cases (Jakarta Commercial Court, 2005).

There are two things that cause the least number of bankruptcy cases to be registered with the commercial court, namely first, the burden of preparing documents at the time of the request causes the applicant to be reluctant to register the case with the court, and secondly, the parties prefer to settle their debt problems through other means, namely the negotiations conducted by without court interference. Debt settlement through this way is done because settlement by bankruptcy will be very detrimental to both parties - bankrupt assets will be sold at very cheap prices (Rajaguguk, 1998). Therefore, they prefer to settle their debts in other ways outside the court.

4. Setting Provisions for the Time Limit for a Case Examination

The bankruptcy procedure starts from the time the application is registered until the court decision is handed down must be completed within no more than 60 days. Debt settlement must be completed quickly and effectively in court so that it can restore the confidence of foreign investors and restore the country's economy at that time (Mulyadi, 1998). One of the quickest solutions to this is to carry out a simple verification of the evidence of debt for bankruptcy cases in the commercial court. Cases which prove their debts are not easy and simple and that result in settling cases for a long time are not the authority of the commercial court. The authority of such cases is the authority of the district court. In the decision to request the case review of PT. WRS Indonesia v Rodney Alexander Bothwell, The Supreme Court of the Republic of Indonesia ruled that the dispute that occurred in this case was concerning the achievements of company relations, which applied between the respondent (PT WRS Indonesia) as the employer and the applicant (Rodney Alexander Bothwell) as workers. According to the Supreme Court of the Republic of Indonesia, this issue should be examined and decided in advance according to civil proceedings in the district court, because the agreement was made based on a work agreement whose proof was not simple and not easy. Rodney Alexander Bothwell should have registered the case in the district court and not the commercial court.

The regulation regarding the time limit for bankruptcy settlement in a commercial court within a period of 60 days can cause the settlement of cases to be faster, in accordance with the time period and the non-existence of bankruptcy cases in arrears.

5. The Examination Before the Judge with the Composition of the Trial of the Assembly

In the judicial power system in Indonesia, the authority to examine and decide on a case becomes the authority of a judge. The task of the judge (the court) is to receive, examine and decide on every case that includes civil cases or criminal, submitted to him. The task of the commercial court judge is to examine and decide on the bankruptcy case and the suspension of debt repayment obligations (PKPU) and other business cases. In the judicial power system in force in Indonesia, the court clerks do not have the authority to examine and decide cases. The duty of the court clerk is limited to the administration of the court and is present in every trial in the trial with the task of making notes about the proceedings of the trial and important matters discussed in the trial.

Examination of bankruptcy cases is carried out with a panel of judges. An examination with a panel of judges is an examination with three judges. This issue is excluded if the law regulates otherwise. Of the three judges, one acts as chairman of the panel of judges and two others are members of the panel of judges. The examination with the composition of the panel of judges aims to maintain an honest examination and to provide protection for human rights in court proceedings (Mertokusumo, 2002).

6. Ad Hoc Judges May Be Appointed in the Hearing at the Hearing

During the trial hearings conducted in the commercial court and in the Supreme Court of the Republic of Indonesia, according to a presidential decree based on a proposal from the Chairman of the Supreme Court, an expert may be appointed as an ad hoc judge. The inauguration of an ad hoc judge happened in a commercial court.

An ad hoc judge or judge with a "specific purpose" is a judge who is temporary (Mertokusumo, 2002). The inauguration of the judge is intended to speed up the settlement of the case and increase professionalism and improve the quality of court decisions which at that time were considered not to have adequate legal reasons, were inconsistent until the issue of decisions could be traded. In order to carry out the law orders relating to this ad hoc judge a Supreme Court Regulation No. 3 of 1999 was issued. This regulation was then revised by the Republic of Indonesia Supreme Court Regulation No. 2 of 2000.

An ad hoc judge is someone who is an expert in his field and is appointed by the President on the recommendation of the Chairman of the Supreme Court of the Republic of Indonesia. An expert is someone who has sufficient scientific discipline and experience in his field, for at least ten years. The inauguration of an ad hoc judge is determined by the Chairperson of the Supreme Court of the Republic of Indonesia, and is assigned to the authority of commercial court throughout Indonesia. The appointment of an ad hoc judge as a member of a panel of judges in a case can be proposed by the head of the commercial court or the request of one of the parties to the dispute. The conditions for a case can be examined by the inauguration of this ad hoc judge are if a case is considered difficult and complicated, there are internationalaspects in the case, the number of claims is large and requires expertise for the hearing of the case (Wijayanta & Mertokusumo, 2003).

In 1998 to 2004, of the 405 cases examined by the commercial court, eight cases involved the presence of ad hoc judges. Of the eight cases, seven cases (87.5%) were examined involving the ad hoc judge Elijana and one case (12.5%) was examined by ad hoc judge Sunaryati Hartono. However, after 2001 there was no longer the involvement of these ad hoc judges in bankruptcy hearings in commercial court, even though there were actually several cases that actually required the involvement of these ad hoc judges. These cases are then examined and decided by commercial judges without involving the presence of ad hoc judges.

The ad hoc judge was not involved because after the ad hoc judge's term of service as stipulated in Presidential Decree Number 71 / M of 1999 and Presidential Decree Number 108 / M of 2000 ended in force, the Supreme Court of the Republic of Indonesia no longer appoints and appoints an ad hoc judge new to replace ad hoc judges who have expired their duties.

Based on the matters as described above, it can be concluded that the presence of ad hoc judges in the examination of cases in commercial court is considered ineffective because (i) of a total of 405 cases (1998-2004) only seven cases involved the role of ad hoc judges, (ii) although 13 ad hoc judges have been appointed and appointed but only one judge has a role in the hearing in court trials, and (iii) in fact the function of the ad hoc judge can also be carried out by commercial judges. In cases that actually require the involvement of ad hoc judges in reality they can be examined and decided by the commercial judge himself.

7. Examination in Public Open Trials

An examination of a bankruptcy case in a commercial court is conducted in a public hearing (Mertokusumo, 2002). Basically, the case investigation in a court is open to the public unless the law regulates otherwise. Therefore, everyone is allowed to attend to hear and see the proceedings at the

hearing (Mertokusumo, 2002), with the aim of protecting human rights in the field of justice and to guarantee the objectivity of the judiciary by taking responsibility for fair hearings so that the hearings run fairly and impartially and decisions are fair to the public. This principle is also carried out in examining bankruptcy cases in commercial court.

Court Decisions Are Bankrupt Decisions and Dissenting Opinions May Apply

Because the examination of bankruptcy cases is carried out with a panel of judges consisting of three judges, before the verdict is handed down, the judge will hold a meeting to take the decision. Decisions are made based on majority votes. The panel of judges meeting is held outside the court and may only be attended by the chairman and the two members of the panel of judges. The clerk is not permitted to participate in the decision-making meeting. Because it was attended by three judges, dissenting opinions could occur in this decision-making meeting.

The panel of judges meeting are confidential and may only be attended by the chairman and the two members of the panel. During the meeting, the youngest member of the rank and class of judges (judge member II) were given the first opportunity to express their opinions. Then the opportunity is given to judge member I and finally the chairman of the panel of judges will express his opinion (Supreme Court of Indonesia, 2002). If there are differences of opinion, then the notes of dissent will be united in the decision.

This is different from other court decisions in the judicial power system in Indonesia. In district courts, for example, records of dissent are not combined with decisions, but these differences of opinion are kept in a secret notebook and kept by the head of the district court (Supreme Court of Indonesia, 2002). Although later in its development according to Law Number 48 of 2009 concerning Judicial Power, these differences of opinion are incorporated and become an attachment to the decision.

Dissent may occur in a court decision because it is made possible by statutory provisions. In the case of Paul Sukran, S.H v. PT. Manulife Indonesia Life Insurance (AJMI), case examination is conducted by a panel of judges. In this case decision, there was a difference of opinion between the head of the panel of judges and the two members of the panel. The head of the panel of judges did not accept the decision of PT AJMI's bankruptcy petitioned by petitioner Paul Sukran, S.H. But on the contrary both members of the panel of judges accepted the bankruptcy request. Because the decision was taken by majority vote, the court's decision then granted Paul Sukran's request to bankrupt PT. AJMI. However, because the Chief Judge of the Judges disagreed and disagreed with the majority decision, the dissertation of one of the members of the panel of judges was attached to the dissenting opinion. In this case the bankruptcy requirement is the existence of debt, the debt has arrived to be paid and the existence of other creditors is not proven. Therefore, the head of the panel of judges did not accept Paul Sukran's request to bankrupt PT. AJMI. Even though the related parties disagree with the other two members of the panel of judges because the decision was taken by majority vote, the related person must still approve the decision and he is still bound by the contents and must sign the decision. However, these differences of opinion may be attached in a court decision.

8. Legal Efforts Go Directly to the Supreme Court of the Republic of Indonesia and There Is A Time Limit on the Case Investigation

Parties who are dissatisfied and feel disadvantaged by the existence of a commercial court decision can file a legal remedy directly to the Supreme Court by cassation. If you are not satisfied with the decision of the cassation, you can continue to submit a request for review to the same Court (Figure 2). The deadline for completing an appeal is 60 days, while the reconsideration is 30 days. It is possible that the legal remedy of bankruptcy decisions directly to the Supreme Court of the Republic of Indonesia

without having to be appealed to the high court first, resulting in the settlement of bankruptcy cases as regulated in Act Number 37 of 2004 can be accelerated. The duration of the case settlement from the filing of the application for bankruptcy to the commercial court to the decision of the Supreme Court of the Republic of Indonesia only takes 150 days.

The remedy for bankruptcy decisions by directly submitting an appeal to the Supreme Court of the Republic of Indonesia is different from the settlement of the bankruptcy case in force in the district court prior to the establishment of the commercial court. Parties who are dissatisfied and feel disadvantaged by the bankruptcy decision must first file an appeal to the high court. If the person concerned is still not satisfied with the decision of the appeal handed down by the high court, he may submit an appeal to the Indonesian Supreme Court. Finally, if he is still not satisfied with the cassation decision, he may submit a request for reconsideration to the Indonesian Supreme Court. With this model, the bankruptcy case resolution takes a long time and often cannot be predicted when the case will be finished (Simanjutak, 2004).

Requests for appeal against the court must be registered with the clerk of the commercial court within eight days after the verdict of the bankruptcy is handed down. The Registrar must deliver the request to the respondent (the opposite party) within two days after the application is registered. The respondent's party can submitan appeal memory counter to answer the appeal memory submitted by the applicant and submit it to the clerk in at least seven days. The Registrar will submit the appeal cassation counter to the applicant within two days after receipt of the cassation counter receipt. The Registrar must submit the request for cassation, cassation memory, and counter memorandum of appeal together with the case file to the Supreme Court of the Republic of Indonesia through the Supreme Court clerk of the Republic of Indonesia at the latest 14 days after the date of the appeal request being registered. The Supreme Court of the Republic of Indonesia will examine and set an examination date for an appeal in a minimum of 2 x 24 hours.

Examination of an appeal request shall begin within 20 days after the application is received by the Supreme Court of the Republic of Indonesia, while the appeal of the cassation shall be passed later than 60 days after the appeal of the Supreme Court is received. The clerk of the Supreme Court of the Republic of Indonesia must submit a copy of the cassation decision to the clerk of the commercial court three days after the date the cassation award is handed down. The clerk of the commercial court must deliver a copy of the decision of the cassation to the applicant, the respondent, the curator and the supervising judge within two days after the cassation decision has been received.

Parties who are dissatisfied with the cassation ruling may submit a judicial review to the Supreme Court. This remedy may be done if there is new evidence. Requests for reconsideration must be submitted to the clerks of the commercial court and forwarded to the clerks of the Indonesian Supreme Court. The reconsideration decision was handed down within 30 days. A copy of the reconsideration decision must be submitted to the parties two days after the verdict is announced by the Indonesian Supreme Court (Figure 2).

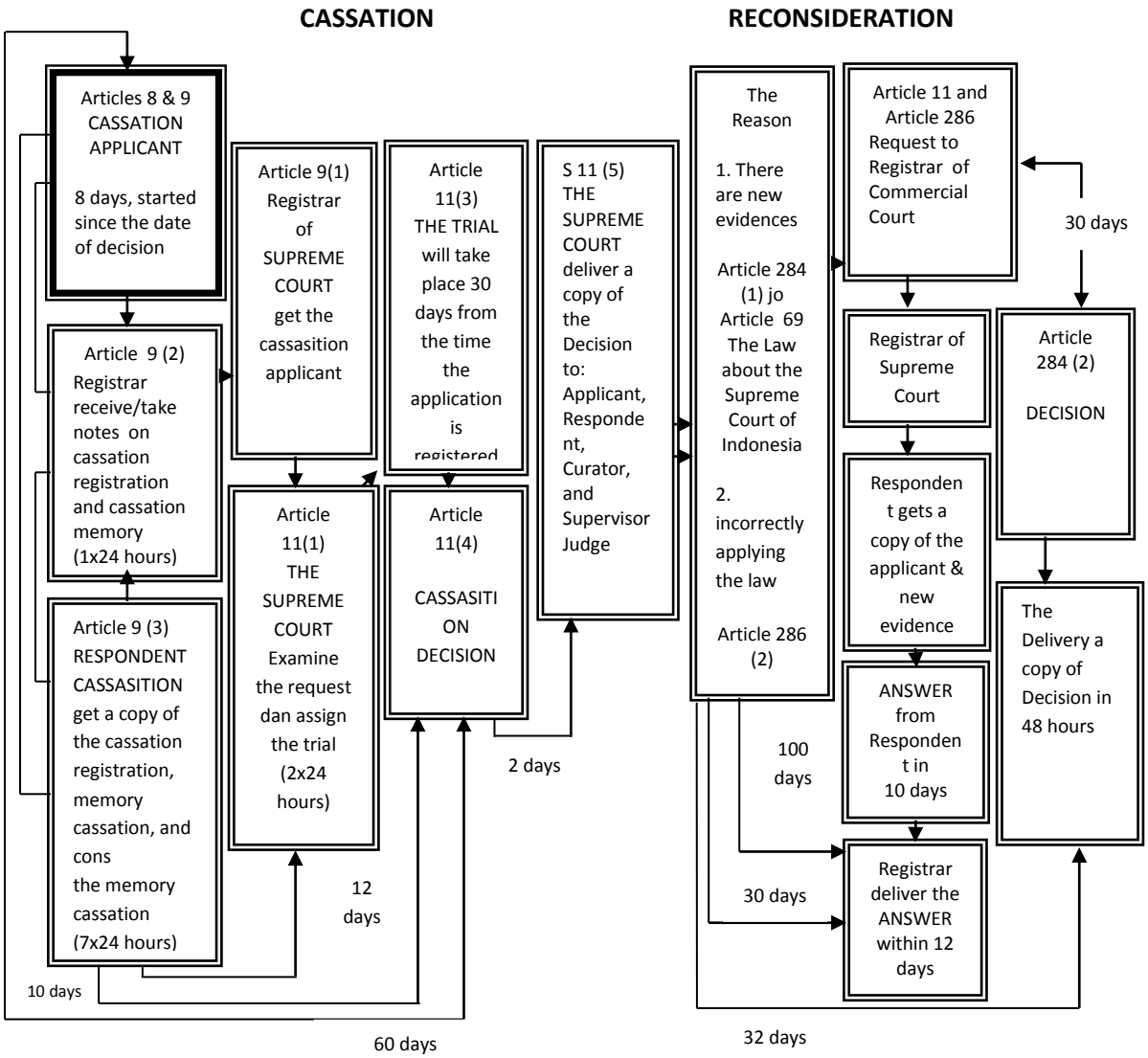

Figure 2. Chart of Procedures for Requests for Cassation and Reconsideration

Conclusion

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations reformed the bankruptcy laws that were in effect earlier, both reformed the courts that had the absoulut competence to examine and terminate bankruptcy and reform the bankruptcy procedures in commercial courts. The bankruptcy procedure in a commercial court is different from the bankruptcy procedure in the previous court

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