

Lembaga kepailitan dalam pemulihan aset tindak pidana korupsi = Insolvency proceedings in corruption asset recovery

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Abstrak

Penulisan Skripsi ini dilatarbelakangi oleh adanya permasalahan mengenai pemulihan aset hasil tindak pidana korupsi, yang kerap kali dinilai masih tidak maksimal dalam pelaksanaannya, terlebih apabila terhadap harta benda tersebut dilakukan pencucian uang ke luar negeri sehingga menimbulkan permasalahan antar yurisdiksi. Pemulihan aset tidak hanya dapat dilakukan melalui mekanisme hukum pidana saja, namun juga hukum perdata, termasuk pula kepailitan, hal mana telah diterapkan dalam beberapa kasus yang pernah terjadi di beberapa yurisdiksi, namun belum pernah diterapkan di Indonesia. Metode penelitian pada skripsi ini adalah penelitian hukum dalam bentuk yuridis normative. Berdasarkan analisis penulis, forum kepailitan, termasuk pula kepailitan lintas batas (cross-border insolvency) dapat menjadi salah satu pilihan untuk memaksimalkan permasalahan pemulihan aset, disamping melalui penuntutan secara pidana dan gugatan perdata. Namun untuk memaksimalkan hal tersebut, Pemerintah perlu mengatur lebih lanjut mengenai kepailitan lintas batas (cross-border insolvency) serta joint bankruptcy dalam Undang-Undang Kepailitan Indonesia.

.....The writings of this thesis is motivated by issues regarding the recovery of assets resulting from and related to corruptions, which are often considered to be not optimal in its implementation, especially when the particular assets are being laundered overseas, and therefore arising an extra-jurisdiction problems. Asset Recovery is not only be done by criminal forfeiture, but also civil forfeiture, including bankruptcy or insolvency proceedings as well, in which insolvency proceedings has been applied in several cases in several jurisdictions, but have never been applied in Indonesia. The research method in this thesis is normative judicial legal research. Based on the writer's analysis, bankruptcy and/or insolvency proceedings, including the legal instrument of cross-border insolvency, can be an option to aid and maximize to succeeds asset recovery. However, in order to maximize its success, the Government should regulate about cross border insolvency and joint bankruptcy and/or insolvency further , in the Indonesian Bankruptcy Law.