

## ABSTRAK

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Program Studi : Hukum Bisnis Internasional  
Judul Tesis : **Analisis Yuridis Mengenai Perlindungan Hukum Bagi Mantan Pekerja Selaku Kreditor Preferen Pada Masa Insolvensi Debitor Dalam Proses Kepailitan**  
(Studi Kasus Putusan Pailit No. 12/Pdt.Sus-Pailit/2015/PN.Niaga.Smg dan Gugatan Lain-lain antara Anton Prayogo dan Ardi Ricki melawan PT Bank CIMB Niaga Tbk Nomor 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg)

Masalah pokok yang diangkat dalam penelitian ini ada 3 (tiga), yakni: Bagaimana analisis hukum atas Putusan Pailit No. 12/Pdt.Sus-Pailit/2015/PN.Niaga.Smg dan Gugatan Lain-lain Nomor 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg, bagaimana perlindungan hukum bagi mantan pekerja PT Mitraplast akibat tindakan Bank CIMB Niaga yang tidak memberikan pembayaran upah (dari hasil lelang pada masa insolvensi), bagaimana upaya hukum yang dapat ditempuh oleh mantan pekerja PT Mitraplast untuk memperoleh haknya berupa uang pesangon. Jenis penelitian ini adalah penelitian hukum yuridis normatif, sedangkan sifat penelitian yang digunakan adalah deskriptif analitis dimana memuat gambaran terhadap setiap masalah pokok sekaligus dilakukan analisa secara terperinci terhadap setiap permasalahan. Dari hasil penelitian dapat diketahui bahwa Majelis Hakim yang memeriksa Perkara Nomor 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg, telah memberikan putusan yang tidak sesuai dengan Hukum Acara Perdata, karena telah mengabulkan eksepsi *error in persona* namun menyatakan Gugatan ditolak untuk seluruhnya, selain itu setelah melakukan analisis terhadap UU Ketenagakerjaan dan UU Kepailitan, Penulis menemukan bahwa ternyata perlindungan hukum bagi mantan pekerja sejak adanya Putusan Mahkamah Konstitusi Nomor 67/PUU-XI/2013 menjadi semakin tidak diutamakan, dimana hal ini menjadi tidak sejalan dengan Teori Perlindungan Hukum, namun sebaliknya UU Kepailitan masih memberikan perlindungan berdasarkan Pasal 60 ayat (2) UU Kepailitan, meskipun demikian, hemat Penulis, Bank CIMB Niaga seyogyanya tetap memberikan upah pesangon kepada mantan pekerja PT Mitraplast, dengan telah adanya tuntutan/gugatan dari mantan karyawan PT Mitraplast selaku Kreditor Preferen. Adapun upaya hukum yang dapat ditempuh Antoni Prayogo dan Ardi Ricki selaku mantan pekerja PT Mitraplast, antara lain mengajukan upaya hukum Kasasi ke Mahkamah Agung atas Putusan Nomor 05/Pdt.Sus-GLL/2017/PN.Smg; mengajukan Gugatan yang baru kepada Bank CIMB Niaga, namun melalui Kurator PT Mitraplast, melaporkan Direksi PT Mitraplast ke kepolisian.

Kata kunci : Kepailitan, Kreditor Preferen, Kreditor Separatis

## ABSTRACT

Name : B VITA INDRIANI  
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Thesis Title : **Judicial Analysis Concerning Law Protection Of Former Employees As Preferred Creditor During The Debtor's Insolvency Period On the Process of Bankruptcy.**  
(Case Study Of Bankruptcy Court Decision Number 12/Pdt.Sus-Pailit/2015/PN.Niaga.Smg and Other Lawsuit between Anton Prayogo and Ardi Ricki against PT Bank CIMB Niaga Tbk Number 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg)

*There are 3 (three) main issues that will be discussed in this study, as follow: How is the legal analysis of Bankruptcy Court Decision Number 12/Pdt.Sus-Pailit/2015/PN.Niaga.Smg and Other Lawsuit Number 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg; How is the law protection of the former employees of PT Mitraplast due to the act of CIMB Niaga Bank for not providing severance pay (from the proceeds of auction in insolvency period); And how is the legal effort that could be proceed by former employees of PT Mitraplast to obtain their rights of severance pay. The category of this studi is normative judicial studi, whereas the character of studi that will be applied is descriptive analysis which contains descriptions of every main issues and followed by circumstantily analysis of each issues. From the result of the study, shown that the Judges of Case Number 05/Pdt.Sus-GLL/2017/PN.Niaga.Smg, have established court decision that is not consistent with the Procedure of Civil Law, due to granting exception of error in persona however stating that lawsuit is not accepted entirely, furthermore after having analysis of Labour Law and Bankruptcy Law, Author found that since there is Decision of Constitutional Court Number 67/PUU-XI/2013, law protection for former employees become more non priority, where this matter becomes inconsistent with the Theory of Law Protection, however, otherwise Bankruptcy Law still provide protection for former employees based on Article 60 Paragraph 2 Bankruptcy Law, nevertheless, in Author's opinion, CIMB Niaga Bank should providing severance pay to the former employees of PT Mitraplast, where already occured Lawsuit from former employees of PT Mitraplast as Preferred Creditor. Legal efforts that can be proceed by Antoni Prayogo and Ardi Ricki as former employees of PT Mitraplast are having Cassation Appeal to the Supreme Court of Court Decision Number 05/Pdt.Sus-GLL/2017/PN.Smg and having registration of another Lawsuit to CIMB Niaga Bank through the Curator, reporting the Directors of PT Mitraplast to the police institution.*

Key words : *Bankruptcy, Separatist Creditor, Preferred Creditor*