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## **The Validity of Receivables Transfer (Cessie) After A Bankruptcy Declaration (A Case Study of The Curator Team of PT Perinco Graha Lestari V. PT Bank DBS Indonesia)**

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**Abstract:** This study examines the validity of debt transfer (cessie) conducted by a secured creditor after a bankruptcy declaration through the dispute involving the Curator Team of PT Perinco Graha Lestari against PT Bank DBS Indonesia and the assignee of the transferred receivables. The legal issue arises because, after the debtor is declared bankrupt, all assets of the debtor become subject to a general confiscation under the administration of the curator, while secured creditors still retain rights over the collateral attached to their receivables. This study aims to analyze the validity of cessie after a bankruptcy declaration and to examine the disparity in judicial considerations at the Commercial Court, Cassation, and Judicial Review levels. The research employs a normative juridical method using statutory, conceptual, and case approaches. Legal materials were collected through library research consisting of legislation, court decisions, and legal literature related to bankruptcy and cessie. The results show that the transfer of receivables by secured creditors after a bankruptcy declaration cannot be assessed solely under civil law provisions, but must also consider the principle of general confiscation and the curator's authority under the Bankruptcy and Suspension of Debt Payment Obligations Law. The differing judicial considerations between the Commercial Court and the Supreme Court reflect variations in legal reasoning regarding the position of cessie after bankruptcy within the Indonesian bankruptcy system, which may affect legal certainty in its application.

**Keyword:** Bankruptcy; Cessie; Secured Creditor; Curator; Bankruptcy Estate.

### **INTRODUCTION**

Bankruptcy constitutes a legal instrument within private law designed to resolve debt-related disputes through a collective mechanism involving the entirety of the debtor's assets. Through a declaration of bankruptcy, the court imposes a general attachment over all assets of the debtor, the administration and liquidation of which are carried out by a curator under the supervision of a supervisory judge. This mechanism aims to ensure the orderly and proportional settlement of debts, thereby preventing individual creditors from pursuing repayment independently. This concept is consistent with the principle of *missio in bona*, which regards the debtor's assets as a general guarantee for the fulfillment of obligations to creditors. This

principle is also reflected in Article 1 point (1) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, which defines bankruptcy as a general attachment over all assets of a bankrupt debtor administered and liquidated by a curator under the supervision of a supervisory judge.

In practice, bankruptcy is inseparable from the legal relationship between creditors and debtors arising from debt obligations. Creditors are entitled to repayment of their claims, while debtors are obliged to fulfill their contractual obligations. The debtor's inability to perform such obligations forms the basis for the application of bankruptcy as a collective debt settlement mechanism. Upon the declaration of bankruptcy, the debtor loses the authority to control and manage assets forming part of the bankruptcy estate (*boedel pailit*). Such authority is transferred to the curator, who administers and liquidates the estate for the benefit of all creditors.

Bankruptcy law recognizes the classification of creditors based on the nature of their claims, namely secured creditors (*separatis*), preferred creditors, and concurrent creditors. Secured creditors are those holding proprietary security rights, such as mortgages (*hak tanggungan*), pledges, hypothecs, or fiduciary security, which grant priority in repayment. This position is affirmed in Article 55 paragraph (1) of Law Number 37 of 2004, which provides secured creditors with the right to enforce their security interests as if bankruptcy had not occurred, subject to statutory limitations. This provision indicates that a declaration of bankruptcy does not extinguish proprietary rights attached to secured creditors.

In addition to enforcing security rights, secured creditors may undertake legal actions concerning their claims, including the transfer of receivables to third parties through a *cessie* mechanism. Such transfer assigns the right to claim from the original creditor to the assignee without extinguishing the underlying legal relationship between debtor and creditor. The mechanism of *cessie* is governed by Article 613 of the Indonesian Civil Code, which requires a deed of assignment and notification to the debtor. Its validity must also comply with the general requirements for a valid agreement as stipulated in Article 1320 of the Indonesian Civil Code.

The transfer of receivables through *cessie* is commonly employed in financial and banking practices. Legal issues arise when such transfers are carried out after the debtor has been declared bankrupt. Following the declaration of bankruptcy, a general attachment is imposed over all assets of the debtor, and the authority to administer and liquidate the bankruptcy estate is vested in the curator. This condition raises a legal issue regarding the extent to which secured creditors may transfer their receivables after a declaration of bankruptcy.

This issue is significant because the transfer of receivables involves not only the assignment of claims but also rights over proprietary security within the bankruptcy process. The assignee assumes the position of the original creditor, including the attached security rights. This shift may affect the exercise of execution rights, verification of claims, and distribution of proceeds from the liquidation of the bankruptcy estate.

The Bankruptcy and Suspension of Debt Payment Obligations Law provides for the possibility of transferring receivables after a declaration of bankruptcy, as stipulated in Article 87 paragraphs (4) and (5). However, these provisions do not clearly define the scope of authority of secured creditors in such transfers, particularly when they relate to proprietary security rights within the bankruptcy process.

The issue concerning the validity of receivables transfer (*cessie*) after bankruptcy is reflected in the dispute between the Curator Team of PT Perinco Graha Lestari (in bankruptcy), Bank DBS Indonesia as a secured creditor, and PT Karya Invest as the assignee. The dispute relates to the transfer of receivables along with proprietary security rights in the form of a mortgage (*hak tanggungan*) conducted after the debtor had been declared bankrupt. Differences

arose regarding the validity of the cessie and the limits of the curator's authority over such transfer.

At the first instance, the Commercial Court at the Central Jakarta District Court, through Decision Number 26/Pdt.Sus-Gugatan Lain-lain/2024, held that the transfer was contrary to bankruptcy law because it concerned the bankruptcy estate under the curator's administration. The cessie was considered to affect the integrity of the estate and was declared invalid. At the cassation level, however, through Decision Number 44 K/Pdt.Sus-Pailit/2025, the Supreme Court overturned the decision and held that the transfer of receivables constitutes a legal relationship between creditors beyond the curator's authority. This reasoning was upheld in Decision Number 27 PK/Pdt.Sus-Pailit/2025. These differing judicial considerations indicate variation in interpreting the validity of receivables transfer by secured creditors after a declaration of bankruptcy. The resulting divergence gives rise to legal uncertainty, particularly in determining the limits of authority between secured creditors and the curator in relation to receivables and attached security rights within the bankruptcy process.

Most studies on cessie examine the transfer of receivables from the perspective of civil law, particularly the validity of the transfer and the legal position of the assignee. Less attention has been given to situations where the transfer is carried out after the debtor has been declared bankrupt. In such circumstances, the issue extends beyond a contractual relationship between creditors and intersects with the collective nature of bankruptcy proceedings, the authority of the curator, and the administration of the bankruptcy estate. The differing decisions of the Commercial Court and the Supreme Court further demonstrate the absence of a uniform approach in determining the legal status of cessie after bankruptcy. This study therefore examines the validity of cessie after a bankruptcy declaration and analyzes the legal reasoning underlying those decisions.

## METHOD

This study is a normative legal research that applies statutory, conceptual, and case approaches to examine the legal framework governing cessie, the position of secured creditors, and the legal consequences arising from bankruptcy proceedings. The analysis is based on relevant provisions of the Indonesian Civil Code, the Bankruptcy and Suspension of Debt Payment Obligations Law, and selected court decisions related to similar issues. The study focuses on how the transfer of receivables is regulated under positive law and how these provisions are interpreted and applied within bankruptcy practice. It also aims to provide a clearer understanding of the interaction between private law principles governing assignment of receivables and the collective mechanism of debt settlement in bankruptcy proceedings.

## RESULTS AND DISCUSSION

Disparity of judgments refers to a situation in which courts render different legal assessments in cases that share similar characteristics and core issues. Such differences generally arise from varying interpretations of legal norms used as the basis for judicial reasoning. This condition is evident in cases involving the transfer of receivables through *cessie* after a debtor has been declared bankrupt. The Commercial Court at the Central Jakarta District Court, through Decision Number 26/Pdt.Sus-Gugatan Lain-lain/2024, held that the transfer of receivables conducted after the declaration of bankruptcy contravened the principle of general attachment and encroached upon the authority of the curator, thereby rendering the act invalid. In contrast, the Supreme Court, through Cassation Decision Number 44 K/Pdt.Sus-Pailit/2025 and Judicial Review Decision Number 27 PK/Pdt.Sus-Pailit/2025, held that *cessie* remains valid as a civil legal act between creditors and does not constitute an action subject to avoidance by the curator.

These differences in legal reasoning reflect divergent approaches in understanding the relationship between bankruptcy law and civil law concerning the transfer of receivables. The Commercial Court positions bankruptcy as a special legal regime that limits any legal acts related to the bankruptcy estate (*boedel pailit*). From this perspective, the transfer of receivables by secured creditors after the debtor has been declared bankrupt is considered capable of affecting the administration and liquidation of the bankruptcy estate and must therefore be subject to the bankruptcy mechanism. In contrast, the Supreme Court views *cessie* as a legal relationship between creditors that does not alter the substance of the debt nor involve the transfer of the debtor's assets, and therefore does not fall within the authority of the curator.

These differences cannot be separated from the role of judges in interpreting and developing the law (*rechtvinding*). In judicial practice, judges do not merely apply written provisions mechanically, but also interpret legal norms to ensure their applicability to concrete cases. Interpretation becomes essential when statutory regulations do not regulate an issue in detail or still allow for differing understandings. This situation is evident in the regulation of receivables transfer after a declaration of bankruptcy, which does not provide clear limits regarding the authority of secured creditors and the curator over receivables and the attached security rights.

This condition indicates that the law does not always fully keep pace with the development of legal practice and societal needs (*het recht hinkt achter de feiten aan*). Developments in business and financing practices have given rise to various forms of receivables transfer that are not entirely regulated in the Bankruptcy and Suspension of Debt Payment Obligations Law. As a result, judges have room to shape interpretations through their decisions. In the present case (*a quo*), these differing interpretations lead to different legal conclusions regarding the position of *cessie* after a declaration of bankruptcy.

A declaration of bankruptcy, in principle, places all assets of the debtor under a general attachment, with their administration carried out by a curator for the benefit of all creditors based on the principle of *pari passu pro rata parte*. However, the Bankruptcy and Suspension of Debt Payment Obligations Law also grants specific rights to secured creditors to enforce their proprietary rights as if bankruptcy had not occurred. Issues arise when such rights are exercised through the transfer of receivables to third parties after the debtor has been declared bankrupt. In such circumstances, there is no explicit regulation determining whether the transfer constitutes purely a civil relationship between creditors or has entered the domain of administration of the bankruptcy estate (*boedel pailit*), which falls under the authority of the curator.

A declaration of bankruptcy takes immediate effect upon pronouncement and is enforceable notwithstanding the absence of final and binding legal force. Its implementation is not suspended by opposition, cassation, or other legal remedies until all legal processes have been examined and decided. Article 16 of the Bankruptcy and Suspension of Debt Payment Obligations Law affirms that from the moment the bankruptcy decision is declared, the curator is immediately authorized to administer and liquidate the bankruptcy estate without awaiting the outcome of cassation or judicial review. Such authority remains in effect throughout the legal process.

The Bankruptcy and Suspension of Debt Payment Obligations Law regulates debt settlement through a collective mechanism involving all parties in bankruptcy proceedings. Issues arise when the transfer of receivables is carried out after a declaration of bankruptcy, particularly when such actions relate to the bankruptcy estate and the enforcement of proprietary security rights. In such circumstances, a legal relationship that initially existed within the private sphere develops into part of the liquidation process of the bankruptcy estate (*boedel pailit*), which is subject to the supervision of the curator. Nevertheless, civil law

continues to recognize *cessie* as a mechanism for transferring the right to claim from the original creditor (*cedent*) to the assignee (*cessionaris*).

The existence of *cessie* after a debtor has been declared bankrupt creates a need for legal certainty regarding its position and legal consequences. Legal certainty is required to ensure that the rights and obligations of the parties can be exercised clearly without giving rise to differing interpretations in judicial practice. The absence of clear regulation opens room for debate concerning the limits of the curator's authority and the scope of action of secured creditors in transferring receivables after bankruptcy has commenced.

Article 1131 of the Indonesian Civil Code provides that all assets of the debtor, both existing and future, constitute security for the fulfillment of all obligations. This provision is related to Article 1132 of the Indonesian Civil Code, which places the debtor's assets as a common guarantee for creditors, with the proceeds of their sale distributed proportionally according to the amount of each claim, unless there exist priority rights. These provisions indicate that debt repayment fundamentally relies on the entirety of the debtor's assets. On this basis, bankruptcy mechanisms developed as a means to ensure the fulfillment of creditors' rights when the debtor is no longer able to meet obligations. The Bankruptcy and Suspension of Debt Payment Obligations Law further grants creditors the right to file a petition for a declaration of bankruptcy through the Commercial Court, as stipulated in Article 2 paragraph (1) and Article 8 paragraph (4).

The transfer of receivables after a declaration of bankruptcy cannot be equated with transfers conducted when the debtor is still solvent. A declaration of bankruptcy results in a general attachment over all assets of the debtor and transfers the authority to administer and liquidate such assets to the curator under the supervision of a supervisory judge. From that moment, the debtor loses the right to control and manage personal assets. In such conditions, the transfer of receivables related to proprietary security rights no longer concerns solely the interests of the parties to the agreement, but also implicates the interests of other creditors within the bankruptcy process. The issue that then arises concerns the limits of the curator's authority and the legal position of the assignee in the liquidation of the bankruptcy estate (*boedel pailit*).

Secured creditors retain the right to enforce their security interests even after the debtor has been declared bankrupt. However, such rights do not operate entirely independently, as their exercise remains subject to the provisions of bankruptcy law, including those concerning the suspension period and the procedures for the liquidation of the bankruptcy estate. The transfer of receivables through *cessie* after a declaration of bankruptcy also affects the position of the assignee. The assignee replaces the original creditor insofar as the transfer is valid and recognized in the claims verification process. This change in the legal subject does not alter the nature of the claim, as its classification as secured, preferred, or concurrent remains inherent from the outset.

Legal certainty in the transfer of receivables after a declaration of bankruptcy depends not only on the validity of the *cessie*, but also on proper administrative order within the bankruptcy process. The transfer must be set out in a written deed and notified to relevant parties so that the change in the creditor's position is clearly established. In the absence of such notification, the curator may continue to record the original creditor in the list of claims. This condition may give rise to discrepancies in records or disputes regarding the party entitled to the receivable in the liquidation process. Therefore, the transfer of receivables after bankruptcy concerns not only the assignment of the right to claim, but also legal certainty regarding the position of the parties within the bankruptcy proceedings.

The issue concerning the validity of *cessie* in bankruptcy cases ultimately relates to the evidentiary process before the Commercial Court. Bankruptcy proceedings are examined through a summary evidentiary mechanism requiring at least two creditors and one debt that is

due and payable. Within this process, evidence plays a crucial role in demonstrating the legal relationship between the parties. One form of evidence with perfect evidentiary value is an authentic deed drawn up by a notary. Such a deed provides certainty regarding the legal acts undertaken by the parties, along with the rights and obligations arising therefrom.

The role of the notary becomes significant in the execution of a *cessie* deed, as the notary is a public official authorized to formalize the intentions of the parties into an authentic instrument. The deed must comply with formal and material requirements to possess outward, formal, and material evidentiary strength. In performing duties, the notary acts based on the data and statements provided by the parties without favoring any party. The notary's responsibility is limited to the formal accuracy of the information set forth in the deed, while the material truth remains the responsibility of the parties providing the statements.

Based on the Decision of the Commercial Court at the Central Jakarta District Court Number 353/Pdt.Sus.PKPU/PN Niaga-Jkt.Pst dated 11 October 2021, PT Perinco Graha Lestari was initially placed under the status of Suspension of Debt Payment Obligations (PKPU). In this decision, the court appointed an administrator team to oversee the debt restructuring process between the debtor and its creditors. The settlement efforts undertaken during the PKPU process failed to reach an agreement, as the proposed composition plan submitted by the debtor did not obtain approval from either secured creditors or concurrent creditors. The failure to achieve a settlement subsequently became the basis for the court to proceed to bankruptcy.

On 16 December 2021, PT Perinco Graha Lestari was declared bankrupt, and the court appointed a curator to administer and liquidate the bankruptcy estate. From the moment the decision was pronounced, the authority to control and manage the debtor's assets was transferred to the curator as stipulated in Article 69 paragraph (1) of the Bankruptcy and Suspension of Debt Payment Obligations Law. In carrying out duties, the curator is obliged to safeguard the interests of all creditors while also taking into account the rights of the debtor, so that the liquidation process proceeds in an orderly and proportional manner.

The implementation of the curator's duties begins with the announcement of the bankruptcy decision through newspapers and the State Gazette of the Republic of Indonesia in accordance with the determination of the supervisory judge. The next stage involves the submission and verification of creditors' claims to ensure the validity of receivables filed in the bankruptcy process. This process is then followed by a creditors' meeting, which results in the determination of the finalized list of claims. In addition, the curator also compiles a list of the assets of PT Perinco Graha Lestari in bankruptcy, which is ratified together with the supervisory judge as the basis for the administration and liquidation of the bankruptcy estate.

During the PKPU process and its continuation into bankruptcy proceedings, Bank DBS Indonesia, as Defendant I, was actively involved in the creditors' meetings held. This involvement indicates that Defendant I was aware of and followed the development of the debt settlement process from the restructuring stage through to the liquidation of the bankruptcy estate. Through its legal counsel, Defendant I also submitted claims during the PKPU process and resubmitted its claims after the debtor was declared bankrupt, with a total amount of IDR 63,020,542,954. This amount consists of IDR 52,339,000,000 as secured claims and IDR 10,681,542,954 as concurrent claims. Accordingly, from a juridical perspective, Defendant I holds a dual position, namely as a secured creditor and as a concurrent creditor.

The finalized list of claims established in the bankruptcy proceedings places Defendant I as a secured creditor as referred to in Article 55 of the Bankruptcy and Suspension of Debt Payment Obligations Law, due to its holding of security rights over certain specific assets. This position grants the right to execute the collateral in accordance with the applicable legal provisions, although its implementation remains subject to the mechanisms of bankruptcy law. The secured assets have also been included in the asset list of PT Perinco Graha Lestari in

bankruptcy, thereby forming part of the administration and liquidation of the bankruptcy estate by the curator.

The existence of security rights over assets owned by third parties in this case cannot be separated from the debt relationship between PT Perinco Graha Lestari and Defendant I. The asset owners knowingly pledged their property as collateral for the credit facilities extended to the company. Such pledge reflects a legal connection between the company's debt and the collateral objects encumbered with security rights. This relationship results in the collateral having a direct linkage to the liquidation process of the bankruptcy estate. This conclusion is further reinforced by amendments to the banking facility agreements executed in the form of notarial deeds, indicating that security rights were imposed on assets owned both personally and by third parties to secure the obligations of PT Perinco Graha Lestari.

The disbursement of credit facilities to the company was subsequently followed by the submission of claims by Defendant I in both the PKPU and bankruptcy proceedings as a secured creditor. In the course of these proceedings, Defendant I also expressed its willingness to cooperate in the handling of the bankruptcy, including by providing original documents and executing the release of encumbrances (*roya*) over the collateral objects. Furthermore, it was acknowledged that the assignment of secured receivables does not eliminate the authority of the curator to sell collateral objects that form part of the bankruptcy estate in accordance with the provisions of the Bankruptcy and Suspension of Debt Payment Obligations Law.

The view that assets owned by third parties and used as collateral may still be treated as part of the bankruptcy estate is further strengthened by the jurisprudence of the Supreme Court of the Republic of Indonesia Number 804 K/Pdt.Sus-Pailit/2019 dated 15 October 2019. In that decision, the Supreme Court affirmed that land and buildings owned by a director who is also a shareholder, which were pledged as collateral for the company's debt, remain regarded as part of the bankruptcy estate due to their direct connection with the settlement of the debtor's obligations. This assessment is not solely based on the name listed on the certificate, but rather on the function of the asset as collateral for the company's debt.

A similar stance was reaffirmed in the Supreme Court Decision Number 724 K/Pdt.Sus-Pailit/2020 dated 29 July 2020. The Supreme Court held that assets owned by third parties and pledged as collateral to secure the debts of a bankrupt debtor must be handed over to the curator after the expiration of the time period stipulated by law. Objections raised by creditors arguing that such assets do not constitute part of the bankruptcy estate were rejected, on the grounds that the assets had been designated from the outset as collateral for credit facilities granted to the bankrupt debtor.

Based on all these facts, Defendant I has legally accepted the provision of collateral for the debts of PT Perinco Graha Lestari in bankruptcy as referred to in Article 21 in conjunction with Article 26 paragraph (1) of the Bankruptcy and Suspension of Debt Payment Obligations Law. Defendant I also acknowledges that collateral objects encumbered with security rights, including those subsequently transferred through the sale and assignment of receivables (*cessie*), remain connected to the bankruptcy estate. This view is consistent with the position of the Supreme Court, which has consistently regarded assets owned by third parties and pledged as collateral for the debts of a bankrupt debtor as forming part of the bankruptcy estate, provided that the statutory requirements and time limits have been fulfilled.

Based on the Minutes of the Creditors' Meeting in Case Number 353/Pdt.Sus-PKPU/PN Niaga-Jkt.Pst, PT Perinco Graha Lestari was declared to be in a *მდგომარეობა* of insolvency as of 16 December 2021. The minutes explicitly state that after the lapse of a 60-day period, the collateral objects must be handed over to the curator to proceed with the sale of secured assets in accordance with Article 59 paragraph (1) of the Bankruptcy and Suspension of Debt Payment Obligations Law. Accordingly, the time limit for Defendant I to exercise its execution

rights over the collateral expired on 14 February 2022. Upon the expiration of this period, the obligation to transfer the collateral objects to the curator arises by operation of law.

The inclusion of third-party assets pledged as collateral into the control of the curator is grounded in Article 59 paragraphs (1) and (2) of the Bankruptcy and Suspension of Debt Payment Obligations Law. These provisions limit the exercise of parate execution rights by secured creditors by requiring that execution be carried out no later than two months from the commencement of insolvency. If execution is not carried out within this period, the curator is authorized to demand the surrender of the collateral objects to be sold in the course of the liquidation process, without eliminating the creditor's rights to the proceeds of such sale. This regulation demonstrates that the rights of secured creditors are still recognized, but their exercise is restricted in order to safeguard the interests of all creditors in the bankruptcy proceedings.

At the time the credit agreement was concluded between the owners of the collateral objects and Bank DBS Indonesia, the parties had agreed to designate such assets as collateral for the credit facilities granted to PT Perinco Graha Lestari. The security rights imposed from the outset were intended to secure the company's obligations, rather than the personal interests of the asset owners. Factually, assets registered under the names of Prius and Bian Kurnia were also used as business premises and operational offices of PT Perinco Graha Lestari. This connection indicates that the provision of collateral by third parties was carried out as part of their support for the company's business activities, as well as to guarantee the repayment of debts owed to Defendant I.

The assessment of collateral objects in bankruptcy proceedings cannot rely solely on formal ownership as stated in certificates. Consideration must also be given to the economic function of such assets in fulfilling the debtor's obligations. This approach is related to the principle of *ten gelde kunnen worden gemaakt*, namely that any asset which can be economically converted into money for the settlement of debts may be considered as part of the bankruptcy estate. Therefore, even if the collateral objects are registered under the names of third parties, their existence remains directly connected to the debtor's obligations where, from the outset, they were intended to serve as security for the company's credit facilities.

The principle of *ten gelde kunnen worden gemaakt* is fundamentally used to assess the substantive legal relationship underlying an asset, rather than merely its formal ownership. This approach aims to prevent attempts to evade the administration of the bankruptcy estate through the use of third-party names, even though, in reality, the asset is closely connected to the financing or business activities of the debtor. Accordingly, the relationship between the collateral object and the debtor's obligation becomes the primary factor in determining whether the asset is connected to the bankruptcy estate.

Article 59 paragraph (1) of the Bankruptcy and Suspension of Debt Payment Obligations Law requires secured creditors to exercise their execution rights no later than two months from the commencement of insolvency as referred to in Article 55 paragraph (1). This provision indicates that the execution rights of secured creditors are not rights that may be exercised without time limitation. If this time period is exceeded, Article 59 paragraph (2) grants authority to the curator to demand the surrender of the collateral to be sold through the liquidation mechanism as regulated under Article 185 of the same law. Such sale must be conducted through a public auction in accordance with the procedures stipulated by the prevailing laws and regulations. From the outset, the law has imposed limitations on the rights of secured creditors over collateral objects. Once the time limit has lapsed, the authority to control and sell the collateral transfers to the curator by operation of law as part of the process of administering and liquidating the bankruptcy estate.

The phrase "the collateral object shall be surrendered" in Article 59 paragraph (2) of the Bankruptcy and Suspension of Debt Payment Obligations Law must be understood as an

obligation of secured creditors to hand over all collateral objects along with the documents attached thereto after the expiration of the execution period. Such surrender does not only apply to collateral registered under the debtor's name, but also includes assets owned by third parties that were from the outset pledged to secure the debts of the bankrupt debtor. This surrender does not extinguish the creditor's rights over the proceeds of the sale, but merely transfers the mechanism of sale execution into the authority of the curator.

Such interpretation is consistent with various Supreme Court decisions, including Decision Number 777 K/Pdt.Sus-Pailit/2018, Number 01 K/Pdt.Sus/2012, Number 028 K/N/2004, and Number 011 PK/N/2005, all of which consistently affirm the obligation to surrender collateral to the curator after the execution period has expired. This position is further reinforced by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 109/KMA/SK/IV/2020 concerning the Implementation of the Guidelines for the Settlement of Bankruptcy and PKPU Cases. The guidelines emphasize that after the expiration of the time limits as stipulated in Article 59 paragraphs (1) and (2) of the law, secured creditors are no longer authorized to independently sell the collateral objects. At that stage, the curator is authorized to take over the execution of the sale, along with the control of documents related to the security rights, including land certificates and release (*roya*) documents.

In the present case, the time limit for Defendant I to exercise its execution rights expired on 14 February 2022. However, the collateral objects were not surrendered to the curator as mandated by law. Instead, Defendant I proceeded to sell and assign the receivables as stipulated in Deed Number 02 dated 15 February 2024, which contains a Conditional Sale and Purchase Agreement of Receivables dated 15 December 2023. The agreement stipulates that the seller transfers all ownership rights and interests in the receivables arising from the credit facilities, along with all related agreements, to the purchaser.

Further provisions under Article 2 of the deed confirm that all rights and benefits attached to the receivables are transferred to the purchaser upon payment of the purchase price, while the effectiveness of the transfer is linked to the execution of the deed of assignment (*cessie*). The implementation of this agreement is subsequently set forth in Deed Number 03 dated 15 February 2024 concerning the Assignment of Receivables, which provides that all ownership rights, privileges, and interests in the receivables are transferred to the assignee as of the date of execution of the deed. Accordingly, it is factually established that Defendant I sold and assigned all rights to the receivables after the expiration of the execution period stipulated under the Bankruptcy and Suspension of Debt Payment Obligations Law. Contract law indeed recognizes the principle of freedom of contract however, such freedom is not absolute. Every agreement must remain subject to statutory provisions, public order, and morality. Accordingly, the parties' freedom to enter into agreements cannot be invoked to circumvent the limitations imposed by bankruptcy law.

The actions of Defendant I in selling and assigning receivables through Deed Number 02 dated 15 February 2024 and the Receivables Assignment Deed executed on the same date constitute a legal act that is inconsistent with the bankruptcy framework. Upon the expiry of the period stipulated in Article 59 paragraphs (1) and (2) of the Bankruptcy and Suspension of Debt Payment Obligations Law (UUK-PKPU), the authority to control and dispose of the collateral object is transferred to the curator. This provision is further reinforced by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 109/KMA/SK/IV/2020 and the Minutes of the Creditors' Meeting, which require the collateral object to be surrendered to the curator by operation of law. Accordingly, both the Receivables Sale and Purchase Deed Number 02 dated 15 February 2024 and the Receivables Assignment Deed executed on the same date were made at a time when Defendant I no longer possessed the authority to undertake legal acts concerning the collateral object. This issue does not relate to the legal capacity of the parties as referred to in Article 1320 of the Indonesian Civil Code,

but rather to the limits of authority imposed by law following the commencement of the administration of the bankruptcy estate. Once the right of execution has been transferred to the curator, any assignment of receivables undertaken by a secured creditor falls outside the scope of authority granted under bankruptcy law.

Furthermore, the Receivables Sale and Purchase Deed Number 02 dated 15 February 2024 does not clearly specify the price as an essential element of a sale and purchase agreement. Under Article 1458 of the Indonesian Civil Code, agreement on both the object and the price constitutes a fundamental requirement for the formation of a valid sale and purchase relationship. The absence of such an element renders the consensual basis of the agreement unclear. This circumstance further indicates defects in the legal act, both in terms of the substance of the agreement and the authority of the party effecting the assignment. The central issue in this case does not concern the availability of the *cessie* mechanism under civil law, but rather the limits of a secured creditor's authority following the commencement of insolvency proceedings. Once the right of execution has been transferred to the curator pursuant to Article 59 of the UUK-PKPU, the assignment of receivables by a secured creditor raises questions as to its validity within the framework of bankruptcy law, as such action is undertaken beyond the authority that remains vested in the creditor under the law.

To assess the legal consequences of the receivables assignment undertaken by Defendant I, it is first necessary to examine the position of *cessie* under civil law as a mechanism for transferring a claim from the original creditor to a new creditor. *Cessie* constitutes an assignment of receivables effected through a deed of assignment, whereby the right to claim is transferred to the assignee. As a legal consequence, the assignee assumes the position of the original creditor with respect to the assigned receivable. For such an assignment to be effective against the debtor, notification (*betekening*) is required so that the debtor is informed of the party entitled to receive performance of the obligation.

Where the assigned receivable is secured by a Mortgage Right (*Hak Tanggungan*), the assignment is also subject to the provisions of Law Number 4 of 1996 concerning Mortgage Rights. Given the accessory nature of a Mortgage Right, the transfer of the receivable is accompanied by the transfer of the security right attached to it. Such transfer is subsequently recorded in the land administration system through registration in the Mortgage Right land register and the land register of the encumbered property, and is further noted on the Mortgage Right certificate and the relevant land title certificate.

The assignment of receivables secured by a Mortgage Right (*Hak Tanggungan*) is not completed merely through the execution of a *cessie* deed. To produce legal effects against third parties, the transfer must also be duly registered. The authority to record changes in the juridical data relating to a Mortgage Right lies with the Land Office (*Kantor Pertanahan*), and accordingly, any application for registration arising from a *cessie* must be submitted to that institution. In the present case, the Land Office is named as a Co-Defendant due to its authority over the registration of the transfer of the Mortgage Right that forms the subject matter of the dispute. As long as the dispute remains pending before the court, the Land Office may, in principle, postpone or refuse registration where there are sufficient legal grounds for doing so. This authority also extends to the cancellation of registration records where such action is ordered by a court decision, thereby preserving the integrity of land administration and ensuring legal certainty regarding the status of the Mortgage Right.

The theory of legal certainty is employed to assess the validity of the assignment of receivables by a secured creditor following the issuance of a bankruptcy judgment. Once a debtor has been declared bankrupt, the legal relationship between the debtor and its creditors no longer exists solely within the sphere of private law, but becomes subject to the collective regime of bankruptcy law. The administration and liquidation of the bankruptcy estate fall under the authority of the curator, with the consequence that any legal act relating to receivables

or secured assets must comply with the limitations prescribed by the Bankruptcy Law. In this context, the assignment of receivables through *cessie* cannot be viewed merely as a civil law transaction between creditors, but must also be examined within the framework of the administration of the bankruptcy estate.

The theory of justice is likewise relevant in evaluating the assignment of receivables after a bankruptcy judgment, particularly in relation to the interests of all creditors. Bankruptcy proceedings are intended to facilitate the collective settlement of debts through the distribution of the debtor's assets in accordance with the respective ranking of creditors. Accordingly, any act capable of affecting the composition or value of the bankruptcy estate should be assessed in light of the need to balance the interests of all parties concerned. The concept of justice as fairness requires that no individual action confer an advantage upon one party at the expense of other creditors. Consequently, the assessment of a *cessie* executed after a bankruptcy judgment concerns not only its validity under civil law, but also its compatibility with the fundamental principles of bankruptcy law, which place debt resolution within a collective mechanism.

This view is consistent with the Universality Theory, which holds that, upon the declaration of bankruptcy, all assets of the debtor become subject to a general attachment (*sita umum*) so that their administration and distribution may be conducted as a single, unified process. As a consequence, any legal act relating to receivables or security rights must remain within the framework of bankruptcy proceedings and be subject to the principle of collective execution. This approach is also reflected in the Creditors' Bargain Theory, which regards bankruptcy law as a mechanism for preventing competition among creditors over the debtor's limited assets. Through such a mechanism, the administration and liquidation of the bankruptcy estate are directed toward a process that safeguards the interests of all creditors in a proportional and orderly manner.

The decision of the Central Jakarta Commercial Court Number 26/Pdt.Sus-Gugatan Lain-lain/2024 examined the validity of a *cessie* executed after a bankruptcy declaration in light of the principles of general attachment (*sita umum*) and the authority of the curator. Once the debtor is declared bankrupt, all assets of the debtor become subject to a collective insolvency regime, under which the administration and liquidation of the bankruptcy estate are centralized in the hands of the curator. Consequently, any legal act relating to receivables or secured assets must be carried out in accordance with bankruptcy procedures and remain subject to the curator's supervision. This reasoning reflects an understanding of bankruptcy as a legal framework designed to preserve the orderly administration of the bankruptcy estate and to prevent individual actions that may affect the position of other creditors.

By contrast, in Supreme Court Cassation Decision Number 44 K/Pdt.Sus-Pailit/2025, the issue was approached from the perspective of the civil law relationship underlying the assignment of receivables. The Supreme Court regarded *cessie* as a legal act that remains valid provided that the requirements of civil law are satisfied, and accordingly held that the curator lacked authority to invalidate the transaction. The Court's analysis focused primarily on the legal relationship between the original creditor and the assignee. As a result, the collective dimension of bankruptcy received less emphasis, with greater attention being given to the validity of the assignment agreement itself. The same approach was subsequently maintained in Supreme Court Judicial Review Decision Number 27 PK/Pdt.Sus-Pailit/2025.

When compared, the reasoning adopted by the Commercial Court is more closely aligned with the nature of bankruptcy as a collective debt resolution mechanism (*concursum creditorum*). The satisfaction of claims is treated as part of the collective administration and liquidation of the bankruptcy estate under the supervision of the curator. Third-party collateral that was originally provided to secure the debtor's obligations also bears a direct connection to the financing of the bankrupt debtor. Accordingly, its status cannot be determined solely on the

basis of formal ownership, as the asset has been economically designated as security for the repayment of the debtor's debts. Such an interpretation is consistent with the principle of *ten gelde kunnen worden gemaakt*, which regards assets possessing economic value for the satisfaction of creditors' claims as relevant components of the bankruptcy estate administration process.

This reasoning is also closely related to the application of Article 59 of the UUK-PKPU, which limits the rights of secured creditors to enforce their security interests. Defendant I was afforded the statutory opportunity to exercise its right of execution within the period prescribed by law. However, that right was not exercised before the expiration of the relevant time limit. Once the period had lapsed, control over and realization of the collateral became subject to the liquidation process under the authority of the curator. In such circumstances, the subsequent assignment of receivables gives rise to legal concerns, as it was undertaken after the expiry of the execution period and at a time when authority over the collateral had already been restricted by the bankruptcy regime.

## CONCLUSION

Based on the foregoing discussion, the assignment of receivables (*cessie*) by a secured creditor following a declaration of bankruptcy remains, in principle, a legally recognized mechanism under civil law. However, once a debtor has been declared bankrupt, the exercise of such rights is no longer confined to private legal relations, as it becomes subject to the bankruptcy regime. Accordingly, any action relating to receivables and secured assets must comply with the provisions of the Bankruptcy and Suspension of Debt Payment Obligations Law (UUK-PKPU), particularly those governing general attachment (*sita umum*), the limitation period for exercising enforcement rights, and the authority of the curator in the administration and liquidation of the bankruptcy estate.

The different approaches taken by the Central Jakarta Commercial Court and the Supreme Court reflect divergent interpretations regarding the legal status of *cessie* after a bankruptcy declaration. The Commercial Court emphasized the collective nature of bankruptcy proceedings, while the Supreme Court placed greater weight on the civil law relationship between creditors. This study finds that the reasoning adopted by the Commercial Court is more consistent with the fundamental objectives of bankruptcy law, namely ensuring the orderly administration of the bankruptcy estate and protecting the interests of all creditors in a fair and proportionate manner.

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