

Analysis of The Rejection of Appeals by The Supreme Court in Bankruptcy Cases (Study of Decision Number 374 K/Pdt.Sus-Pailit/2024)

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Abstract

Bankruptcy serves as a legal mechanism to resolve debt disputes between debtors and creditors in a fair and balanced manner. In Indonesia, it is governed by Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, which stipulates that bankruptcy may be declared if a debtor has two or more creditors and fails to pay at least one due and collectible debt. However, in practice, bankruptcy proceedings often generate legal controversies that may extend to the cassation stage at the Supreme Court. One notable example is Supreme Court Decision No. 374 K/Pdt.Sus-Pailit/2024, involving PT Multi Inti Karya (Respondent in Bankruptcy) and PT Citra Harda Mandiri (Petitioner in Bankruptcy). This study examines the legal reasoning behind the Supreme Court's rejection of PT Multi Inti Karya's cassation request using a normative juridical approach, emphasizing statutory interpretation and judicial analysis. The Court determined that the Central Jakarta Commercial Court had not misapplied the law, as the cassation arguments merely reiterated issues previously assessed by the *judex facti*, thereby failing to meet the criteria of Article 30 of the Supreme Court Law. Moreover, although the debtor claimed partial debt repayment, the Court found remaining unpaid obligations, satisfying the legal elements for bankruptcy. This decision underscores two key principles: (1) cassation in bankruptcy cases must be based strictly on errors of legal application, not factual repetition; and (2) partial payment does not absolve the debtor's liability when outstanding debts remain.

Keywords: Bankruptcy, Cassation Rejection, Supreme Court.

1. Introduction

Bankruptcy serves as a judicial mechanism established by the state to furnish a remedy for resolving financial obligations disputes between debtors and creditors in an equitable, expeditious, and proportionate manner. In Indonesia, the framework governing bankruptcy proceedings is stipulated under Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligations (Yitawati et al., 2023). Article 2 paragraph (1) of the law explicitly delineates the principal condition for declaring a debtor bankrupt, namely, when the debtor possesses no fewer than two creditors and has failed to satisfy at least one matured and payable debt. This legal provision is intended to ensure juridical certainty while safeguarding the creditors' interests without disregarding the fundamental rights of the debtor (B. Nainggolan, 2020).

However, in practice, the application of insolvency requirements often gives rise to debate (Edelman et al., 2019). Differences in interpretation may arise, whether regarding the existence or absence of mature debts, the number of creditors, or the simplicity of the evidence. A number of previous studies have highlighted that bankruptcy is often used as a business strategy by creditors to pressure debtors, while other studies emphasise the role of



commercial courts in assessing whether the requirements for bankruptcy have been met (Porter, 2010). Even so, studies on the relationship between the application of Article 2 paragraph (1) of Law No. 37 of 2004 by the Commercial Court and the Supreme Court's stance in the cassation stage are still relatively limited. This indicates that there is room for research to deepen the analysis of the consistency of law enforcement between *judex facti* and *judex juris* in bankruptcy cases.

The Commercial Court of the Central Jakarta District Court, through Decision Number 31/Pdt.Sus-Pailit/2023, declared PT Multi Inti Karya bankrupt following a petition submitted by PT Citra Harda Mandiri. The debtor subsequently filed an appeal, which culminated in Supreme Court Decision Number 374 K/Pdt.Sus-Pailit/2024, wherein the Court dismissed the appeal and upheld the lower court's ruling. In its considerations, the Supreme Court ruled that the grounds for cassation did not meet the provisions of Article 30 of the Supreme Court Law because they only repeated the arguments that had been examined by the *judex facti*, and there were still outstanding obligations of the debtor that had not been paid even though part of the debt had been settled.

Based on this description, there are two important issues that are the subject of this study. First, this study examines how the bankruptcy requirements outlined in Law No. 37 of 2004 were implemented in the case between PT Multi Inti Karya and PT Citra Harda Mandiri. Second, it explores the legal rationale underlying the Supreme Court's decision to dismiss the appeal in Decision No. 374 K/Pdt.Sus-Pailit/2024, thereby affirming the lower court's declaration of bankruptcy.

This study is expected to contribute scientifically to the development of bankruptcy law in Indonesia, particularly in clarifying the boundaries between the application of law at the *judex facti* and *judex juris* levels. Thus, this research has novelty in the form of an integrative analysis of the consistency of commercial court and Supreme Court decisions in bankruptcy cases, which also reinforces the limitations of cassation grounds so that they do not merely repeat facts, but truly question the application of the law.

2. Methods

This research employs a normative legal method utilizing both a case approach and a statutory approach. The normative method is adopted because the study centers on the analysis of positive law, encompassing statutory provisions and judicial decisions related to bankruptcy law and the cassation mechanism within the jurisdiction of the Supreme Court (Soekanto & Mamudji, 2016).

The primary data sources consist of two judicial decisions: the Commercial Court Decision of the Central Jakarta District Court No. 31/Pdt.Sus-Pailit/2023 and the Supreme Court Decision No. 374 K/Pdt.Sus-Pailit/2024. Additionally, this study incorporates primary legal materials such as Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations and Law No. 14 of 1985 on the Supreme Court, along with its subsequent amendments. To enrich the discussion, secondary legal materials, including academic literature, journal articles, and prior research on bankruptcy and cassation practices at the Supreme Court, are utilized to reinforce the analytical framework and broaden the study's perspective.

The analysis technique used was descriptive qualitative analysis, which involved interpreting the relevant legal norms and relating them to the legal facts in the cases that were the subject of the study. The analysis was conducted in two stages. First, examining the application of bankruptcy requirements in Commercial Court decisions to see whether they

were in accordance with the provisions of Article 2 paragraph (1) of Law No. 37 of 2004. Second, examining the basis for the Supreme Court's consideration in rejecting the cassation petition to identify the consistency of law enforcement between the *judex facti* and the *judex juris*. The application of the normative juridical method was done by examining the relevant articles in the Bankruptcy Law and comparing them with the judges' legal considerations in both decisions to see the conformity of the application of norms with judicial practice. This method is applied by interpreting positive legal provisions, such as Article 2 paragraph (1) of Law No. 37 of 2004, and examining whether the Supreme Court's legal considerations in decision No. 374 K/Pdt.Sus-Pailit/2024 have applied these norms consistently.

With this method, it is hoped that readers will obtain a clear picture of the legal analysis process carried out and be able to assess the consistency and relevance of the decisions of the commercial court and the Supreme Court in bankruptcy cases.

3. Results and Discussion

3.1. Application of bankruptcy requirements under Law No. 37 of 2004 in the case between PT Multi Inti Karya and PT Citra Harda Mandiri

A bankruptcy petition is typically submitted on the premise that a business entity is no longer capable of meeting its financial obligations, particularly concerning the repayment of outstanding debts (Robert et al., 2016). Article 2 paragraph (1) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations provides that a debtor may be declared bankrupt if they have two or more creditors and have failed to settle at least one matured and collectible debt. Accordingly, two principal conditions must be satisfied: first, the presence of multiple creditors, and second, the existence of a due and payable debt that remains unpaid by the debtor (D. C. Nainggolan et al., 2023). Any debtor, whether a legal entity or an individual, may be declared bankrupt as long as they meet the provisions established in the bankruptcy law. The procedure for filing for bankruptcy is specifically regulated in the law, which differs fundamentally from general civil case procedures (Fuady, 1999).

The requirement that a debtor must have at least two creditors is intrinsically linked to the fundamental philosophy underlying the establishment of bankruptcy law. Essentially, bankruptcy law serves as a practical embodiment of Article 1132 of the Indonesian Civil Code, which governs the principle of equal treatment among creditors. Through the bankruptcy mechanism, it is expected that the debtor's financial obligations can be resolved in a fair and proportional manner, granting each creditor an equal legal standing to seek repayment from the debtor's assets. Conversely, if the debtor has only one creditor, the entirety of the debtor's assets automatically functions as security for that single creditor's claim, thereby eliminating the necessity for a pro rata or pari passu distribution process (Hutabarat et al., 2022). Referring to Decision Number 31/Pdt.Sus-Pailit/2023/PN.Niaga.Jkt.Pst., PT Multi Inti Karya, as the Bankruptcy Respondent, was found to have outstanding debts owed to PT Citra Harda Mandiri, the Bankruptcy Petitioner. Furthermore, the Respondent also possessed unsettled obligations to other creditors, namely CV Dwi Sinergy Engineering and Mitra Interior. Hence, it can be concluded that the Bankruptcy Respondent fulfilled the first requirement of bankruptcy, as it had two or more creditors with unpaid debts.

Referring to Decision Number 31/Pdt.Sus-Pailit/2023/PN.Niaga.Jkt.Pst., PT Multi Inti Karya as the Bankruptcy Petitioner has obligations or debts that are due and payable in the amount of IDR 1,292,613,780 (One Billion Two Hundred Ninety-Two Million Six Hundred Thirteen Thousand Seven Hundred Eighty Rupiah) to PT Citra Harda Mandiri as the

Petitioner for Bankruptcy. Based on the building renovation cooperation agreement and addendum signed on 14 February 2020, PT Multi Inti Karya has an obligation to pay PT Citra Harda Mandiri Rp1,660,113,780. However, until the case was filed, the bankruptcy respondent had only made partial payments and still owed a principal amount of IDR 1,027,387,380. This fulfilled the requirements for bankruptcy, namely the existence of matured and collectible debts that were not paid by the debtor.

In addition to the fulfilment of the two main requirements, it is important to highlight the principle of simple proof, which is characteristic of bankruptcy cases. Article 8 paragraph (4) of the Bankruptcy Law emphasises that the judge only needs to ensure that the requirements of two creditors and one unpaid due debt are met. In the case of PT Multi Inti Karya, the panel of judges did not discuss the debtor's overall financial capacity, but only needed to prove the existence of claims from three creditors and the existence of unpaid debts. This is in line with the objective of bankruptcy law, which emphasises efficiency and legal certainty in the settlement of debt disputes.

Further, regarding the argument of partial payment submitted by the bankruptcy respondent, the panel of judges considered that this did not prevent the fulfilment of the bankruptcy requirements. Partial payment only reduces the amount of the obligation, but does not eliminate the remaining debt that is due. Legally, the law does not require the debtor to fail to pay off all debts, but only to prove that there is one due obligation that has not been paid. Thus, the reason for partial payment is irrelevant to rejecting the bankruptcy petition.

This consideration is in line with Supreme Court Decision Number 374 K/Pdt.Sus-Pailit/2024. At the cassation level, the Supreme Court rejected PT Multi Inti Karya's argument that it had acted in good faith by paying part of its obligations. The Supreme Court emphasised that the legal facts showed that there were still outstanding obligations to PT Citra Harda Mandiri and two other creditors that had not been paid, thus simply proving that the requirements of Article 2 paragraph (1) of the Bankruptcy Law had been met. In addition, the Supreme Court also considered that the grounds for cassation merely repeated the arguments that had already been considered by the *judex facti*, thus failing to meet the provisions of Article 30 of the Supreme Court Law. In theory, debtors who have difficulty fulfilling their debt obligations have various alternatives before being declared bankrupt. These efforts may include negotiations for partial or total debt forgiveness, the sale of assets or business units to cover obligations, and the conversion of debt into capital participation or shares. In addition, debtors also have the option of applying for a Debt Payment Obligation Deferral (PKPU) as a legal mechanism to legally restructure their obligations. If all of these alternatives fail to result in an agreement with creditors, then the final step that can be taken is bankruptcy proceedings in a commercial court (Putra & Hariyana, 2022). If the debtor makes a partial payment without going through the formal PKPU mechanism, this action cannot be considered a legal effort to prevent bankruptcy. A unilateral partial payment only demonstrates the debtor's good faith in fulfilling their obligations, but does not have the legal power to delay or negate the creditor's right to file for bankruptcy.

The implications of this decision are significant, as it affirms the consistency between the *judex facti* and the *judex juris* in applying the requirements for bankruptcy. From a practical perspective, this decision provides legal certainty for creditors that they remain protected even if the debtor has made partial payments. In addition, this decision emphasises that bankruptcy law is not an instrument for testing the debtor's good faith, but rather a mechanism for ensuring the fair and proportional distribution of the debtor's assets to all creditors in accordance with the *pari passu pro rata parte* principle (Hindrawan et al., 2023).

3.2. Legal considerations of the Supreme Court in rejecting the appeal in Decision Number 374 K/Pdt.Sus-Pailit/2024

In civil procedure law, there are two types of legal remedies, namely ordinary legal remedies, which include opposition, appeal, and cassation, and extraordinary legal remedies, which take the form of third-party opposition and review. However, in commercial civil cases and intellectual property rights (IPR) cases, appeals are not applicable as stipulated in Articles 11 to 13 of Bankruptcy Law No. 37 of 2004. Therefore, the legal remedies available in commercial cases are limited to cassation as an ordinary legal remedy and review as an extraordinary legal remedy, while opposition or *verzet* is only recognised in other forms (Kurniawan, 2019). Cassation is expected to provide a satisfactory solution for the parties involved, as its scope is limited to assessing the application of laws and regulations to a particular case. Through cassation, it can be determined whether the previous decision contained any legal violations, with the aim of ensuring that the decision handed down fulfils the principles of legal certainty, justice and benefit. Furthermore, if the Supreme Court finds that the district court has erred in applying the law or legislation, the decisions of the district court and high court may be overturned by the Supreme Court (Saleh, 1977).

Law No. 3 of 2009 in conjunction with Law No. 5 of 2004 Article 30 paragraph (1) concerning the Supreme Court specifies the grounds for filing an appeal, namely:

1. Unauthorised or exceeding authority;
2. Incorrectly applying or violating applicable laws;
3. Failing to fulfil the requirements stipulated by laws and regulations, which threatens to invalidate the relevant decision.

An appeal must be filed within a maximum period of eight days from the date on which the decision being appealed was established, and then registered through the clerk of the commercial court that ruled on the bankruptcy petition. Furthermore, the clerk will record the appeal on the same day it is filed and provide the appellant with a written receipt signed on the same date. If the appeal is filed after the deadline specified by law (more than eight days), it may result in the appeal ruling being revoked. A judge's decision that only adheres to the application of the law without considering conscience has the potential to fail to achieve justice and benefit, even though in essence the judge's decision (verdict) is intended to resolve a case or dispute for the sake of upholding the law and justice (Respationo & Hamzah, 2013).

In a case before the Supreme Court, PT Multi Inti Karya (the appellant) filed an appeal against the decision of the Central Jakarta Commercial Court, which had declared the company bankrupt in Case No. 31/Pdt.Sus-Pailit/2023. The main issue at stake is whether PT Multi Inti Karya had properly fulfilled its debt obligations to its creditors, which led to the bankruptcy ruling. The appellant filed an appeal to overturn the ruling on the grounds that the bankruptcy declaration was unfounded and insufficiently substantiated.

The Supreme Court began by reviewing the legal framework governing bankruptcy petitions in Indonesian law, specifically Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UUK). This law establishes the requirements for declaring a party bankrupt, including the requirement that the debtor has debts that are due and unpaid. The Supreme Court reviewed the facts underlying the case, which showed that PT Multi Inti Karya still had unpaid debts to the petitioner and two other creditors, despite having received demand letters for payment. The petitioner claimed that partial payment had been made, demonstrating good faith on their part. However, this claim did not diminish the fact that there were still substantial unpaid obligations.

The Supreme Court also acknowledged the argument put forward by the petitioners that they had paid part of the debt. However, the Supreme Court emphasised that partial payment did not release the debtor from their responsibility to pay off the entire amount of the outstanding debt. Failure to repay all debts, especially after receiving a demand letter, provides sufficient grounds for a declaration of bankruptcy under applicable laws and regulations. The Indonesian Supreme Court ultimately rejected the cassation petition, upholding the bankruptcy ruling made by the Central Jakarta Commercial Court. The Supreme Court emphasised the sufficiency of evidence showing that the debtor, PT Multi Inti Karya, had failed to repay its maturing debts and was liable under the Bankruptcy Law. Furthermore, the applicant's claim for partial payment was deemed insufficient to refute the strong evidence regarding unpaid obligations.

Pursuant to Article 30 paragraph (1) of Law No. 3 of 2009 in conjunction with Law No. 5 of 2004 concerning the Supreme Court, the cassation mechanism functions to ensure the consistency and uniformity of legal application across all judicial bodies in Indonesia. In the case between PT Multi Inti Karya and PT Citra Harda Mandiri, the Supreme Court determined that the Central Jakarta Commercial Court had appropriately applied the provisions of Article 2 paragraph (1) and Article 8 paragraph (4) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (PKPU). The Court found that the criteria of “*two or more creditors*” and “*debts that are due and payable*” had been legally and convincingly established, thereby justifying the declaration of bankruptcy.

Although the appellant argued that part of the debt had been paid, the Supreme Court emphasised that partial payment did not eliminate the due date of the remaining unpaid debt, so this argument was not legally relevant. This assessment demonstrates the Supreme Court's consistency with the principle of legal certainty in the settlement of bankruptcy cases. However, theoretically, this formalistic approach has been criticised for potentially disregarding the principle of substantive justice for debtors acting in good faith, reflecting the tension between legal certainty and justice in bankruptcy decisions in Indonesia.

An analysis of this ruling shows the tendency of the Supreme Court of the Republic of Indonesia to maintain a formal approach to debt payment obligations, regardless of partial payments. This approach reinforces the application of the principle of legal certainty in bankruptcy practice, but raises questions about judicial flexibility towards debtors acting in good faith. The bankruptcy mechanism in Indonesia is highly dependent on formal criteria such as mature debts and the number of creditors, without considering whether the debtor still has business prospects or has made restructuring efforts (Novaliansyah, 2021).

This ruling reaffirms the importance of fulfilling formal legal requirements in bankruptcy declarations based on Law No. 37 of 2004. The Supreme Court noted that evidence of debts that are due and payable is a key element that must be proven legally, while arguments regarding good faith or partial payment have no legal relevance at the cassation stage. Conceptually, this approach reinforces the doctrine of legal certainty, but at the same time reveals the limitations of the normative approach to substantive justice in bankruptcy law.

4. Conclusion

This study demonstrates that the Supreme Court consistently upholds the bankruptcy requirements as prescribed in Article 2 paragraph (1) of the Bankruptcy Law, specifically the presence of two or more creditors and the existence of matured debts that remain unpaid. The fact that PT Multi Inti Karya still has outstanding obligations to PT Citra Harda Mandiri and other creditors proves that these requirements are met, even though partial payments have been made. The argument that partial payment does not preclude a declaration of bankruptcy is proven, as the law only requires the existence of one unpaid debt that is due.

The Supreme Court's rejection of the cassation in Decision Number 374 K/Pdt.Sus-Pailit/2024 also confirms the limitations of the grounds for cassation in bankruptcy cases: only errors in the application of the law can be used as grounds, not the repetition of factual arguments. This strengthens legal certainty for creditors and prevents the bankruptcy process from being used as an arena for repeated debates.

This finding has implications for legal practice in that creditors have strong protection even if the debtor has paid part of their obligations. For legal practitioners and academics, this decision is an important reference for understanding the limitations of cassation grounds and the position of partial payment in bankruptcy cases.

Creditors are expected to be more active in submitting evidence of claims to strengthen their legal position; debtors need to understand that partial payment does not automatically prevent bankruptcy; while policymakers may consider refining the cassation rules to emphasise the aspect of misapplication of the law, rather than repetition of facts.

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