

Article Title

Legal Consequences of a Bankruptcy Decision for a Limited Liability Company in Liquidation: A Case Study of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst

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ABSTRACT

This research aims to analyze the juridical validity of filing a bankruptcy petition against a State-Owned Company in liquidation and the legal consequences of a bankruptcy decision in such a context, based on a study of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst. Employing a normative legal research method with a case study approach and qualitative-descriptive analysis of primary and secondary legal materials, this study finds that a State-Owned Company in liquidation retains its capacity as a debtor legal subject and can be declared bankrupt if the requirements under Law Number 37 of 2004 are met, particularly concerning the existence of at least two creditors and one payable that is due and simply collectible. The primary legal consequence of a bankruptcy decision in such a situation is the immediate cessation of the liquidation process previously conducted under Law Number 40 of 2007, accompanied by the complete transfer of authority for the management and settlement of the bankruptcy estate from the Liquidator team to the Curator appointed by the Commercial Court. This case study affirms that the bankruptcy mechanism can be legitimately applied to a State-Owned Company in liquidation, implying the supremacy of the Law Number 37 of 2004 regime to realize optimal collective protection for creditors.

Keywords: Bankruptcy; Case Study; Legal Consequences; Liquidation; State-Owned Company.

INTRODUCTION

In the competitive dynamics of the business world, the legal instrument of bankruptcy plays a central role as an unavoidable mechanism for resolving debt disputes (Sidabutar, 2019). The existence of bankruptcy institutions aims not only to solve a debtor's inability to meet its obligations but also to ensure legal certainty and justice for creditors through a transparent and structured process of distributing the debtor's assets. This process involves the administration and settlement of the debtor's assets, known as the bankruptcy estate (*boedel pailit*) (Andrian, 2023), the proceeds of which are then distributed to creditors according to their respective claims and priority levels, while still providing proportional legal protection to debtors acting in good faith.

Legal subjects that can be petitioned for bankruptcy under Law Number 37 of 2004 include individuals and legal entities. A Limited Liability Company, as one of the most dominant forms of legal entities in business activities in Indonesia, is inherently subject to these bankruptcy law provisions. Nevertheless, juridical complexities can arise when a Limited Liability Company is not in a normal operational state but is undergoing a dissolution and liquidation process, which raises fundamental questions regarding the interaction and potential overlap between the legal regimes of liquidation and bankruptcy.

The liquidation process constitutes a crucial stage marking the end of a Limited Liability Company's operational existence, where the primary focus is the settlement of all assets and the resolution of the Company's liabilities as a consequence of its dissolution (Paula, 2021). However, it is important to underscore that according to

Article 143 section (1) of Law Number 40 of 2007¹, the dissolution of a company does not automatically eliminate its legal entity status until the liquidation process is completed and the Liquidator's accountability is accepted by the General Meeting of Shareholders (GMS) or the Court. This continuing juridical existence affirms that a Limited Liability Company in liquidation retains its rights and obligations as a legal subject, including its capacity as a debtor that can be petitioned for bankruptcy, thereby giving rise to a legal discourse on whether an ongoing liquidation process must be halted or superseded by a bankruptcy process that is collective and generally applicable.

From the creditors' perspective, the right to file a bankruptcy petition against a debtor is a fundamental instrument for obtaining certainty of receivable repayment (Satrio et al., 2020), irrespective of the debtor's operational status, including when the debtor is a Limited Liability Company undergoing liquidation. Indonesian bankruptcy law, particularly through the provisions of Article 2 section (1) of Law Number 37 of 2004, requires the existence of at least two creditors and at least one payable that is due and collectible as a basis for filing a bankruptcy petition, without providing explicit exceptions for debtors undergoing liquidation. This condition indicates that, as long as the substantive requirements for bankruptcy are met, the debtor's liquidation status does not hinder creditors from pursuing the bankruptcy legal route for a comprehensive and fair settlement of their claims under the supervision of the Commercial Court.

To profoundly understand how these bankruptcy law principles are applied in judicial practice and the juridical implications that arise when a Limited Liability Company, particularly a State-Owned Company (Persero) in liquidation, is declared bankrupt, an analysis of court decisions becomes highly relevant. A case study of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst offers an opportunity to concretely examine the application of the provisions of Law Number 37 of 2004 and Law Number 40 of 2007 in such situations. This decision involves a bankruptcy petition filed by creditors against a State-Owned Company determined to be in liquidation, thereby providing an important precedent regarding how the Commercial Court navigates the intersection between these two legal regimes and determines the resulting legal consequences.

Based on this background, this research aims explicitly to conduct two primary analyses. *First*, this research will examine and explain the mechanisms and legal bases that enable creditors to file a bankruptcy petition against a State-Owned Company in liquidation according to Indonesia's prevailing bankruptcy law provisions. *Second*, this research will comprehensively analyze the legal consequences of issuing a bankruptcy

¹Law Number 40 of 2007, as amended by Article 109 of Government Regulation in Lieu of Law Number 2 of 2022.

decision against a State-Owned Company in liquidation, with in-depth reference to the considerations and ruling in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt. Pst.

METHOD

This research is structured as normative legal research that fundamentally focuses on the norms, principles, and legal tenets of statutory regulations and court decisions (Qamar & Rezah, 2020). This research implements a series of complementary approaches to thoroughly examine the formulated legal issues. *First*, a statutory approach examines the legislative framework governing bankruptcy and a Limited Liability Company in liquidation. *Second*, a conceptual approach is utilized to analyze and clarify the meaning and implications of essential juridical concepts such as liquidation, bankruptcy, the legal status of a company in liquidation, and legal consequences. *Third*, and central to this study, is the case study approach, which permits an intensive and contextual analysis of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst. The synergy of these three approaches is designed to yield a holistic and comprehensive understanding of the legal phenomenon under investigation.

The legal materials forming the basis of analysis in this research consist of primary and secondary legal materials, both of which play a crucial role in constructing the scholarly argumentation (Sampara & Husen, 2016). The principal primary legal materials include core regulatory instruments: Law Number 37 of 2004, Law Number 40 of 2007, Government Regulation Number 14 of 2023, and Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, along with other statutory regulations with direct causality and relevance to the examined legal issues. To enrich and sharpen the analysis of these primary legal materials, this research also utilizes secondary legal materials comprising scholarly literature such as authoritative bankruptcy law and company law textbooks, reputable law journals, scientific articles, and doctrines articulated by prominent legal scholars. All these legal materials were meticulously inventoried and collected through document study or literature review techniques.

Subsequently, all collated legal materials are analyzed qualitatively, with the research possessing a descriptive-analytical nature (Irwansyah, 2020). The descriptive character of this research is manifested through a systematic and accurate exposition of the relevant legal norms, the legal facts disclosed in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, and the arguments of the litigating parties. Meanwhile, the analytical character is applied through a series of in-depth analytical techniques, encompassing legal interpretation to explore the authentic meaning and implications of each statutory provision and the legal considerations (*ratio decidendi*) of the Panel of Judges in the decision; legal reasoning to construct a coherent, consistent, and

justifiable logical flow of argumentation; legal argumentation to construct and defend legal propositions based on valid premises; and evaluation to assess the conformity of legal application with prevailing legal principles and to critically analyze the ensuing legal consequences. By implementing these methodological elements, this research is designed to logically and systematically address each formulated research objective, thereby enabling the production of a comprehensive and in-depth analysis.

RESULTS AND DISCUSSION

A. Background to the Bankruptcy Case of the State-Owned Company in Liquidation: A Study of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst

The bankruptcy case that is the focus of this study, as contained in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst involves two juridical entities with different backgrounds. PT Miki Surya Texindo acted as the Applicant, a private Limited Liability Company domiciled in Bandung, whereas PT Industri Sandang Nusantara acted as the Respondent, a State-Owned Company domiciled in South Jakarta. The essence of this case lies in the bankruptcy petition filed by the Applicant against the Respondent, which was legally in a state of 'in liquidation' when the petition was submitted. This unique status of the Respondent presents a distinct legal dimension in the examination of this bankruptcy case.

The Respondent's state of liquidation did not occur spontaneously but through a series of formal legal processes involving state institutions. Based on court data, the dissolution of PT Industri Sandang Nusantara was officially stipulated through Government Regulation Number 14 of 2023. This governmental stipulation of dissolution was subsequently followed up by Ministerial Decree Number S-283/MBU/05/2023 dated May 26, 2023, which declared the dissolution effective and simultaneously appointed a Liquidator team, namely Mr. Nien Rafles Siregar, S.H., M.H., and Mr. Sony El Mars, S.H., to carry out the process of settling the assets and liabilities of the State-Owned Company. The appointment of this Liquidator team was further confirmed in Notarial Deed Number 237 dated June 22, 2023, followed by a public announcement regarding the liquidation process through national daily newspapers and formal notification to the Minister of Law and Human Rights, marking the commencement of the liquidation phase by the mandate of Law Number 40 of 2007.

The legal relationship underlying the dispute in this case is rooted in a past business relationship between the Applicant as a supplier of textile production machinery and the Respondent as a user of said services. The existence of the Respondent's trade payable to the Applicant, totaling IDR 4,308,696,789.48 (four

billion three hundred eight million six hundred ninety-six thousand seven hundred eighty-nine point forty-eight Rupiah), consisting of components in Rupiah and United States Dollar, is an undisputed fact and was even formally acknowledged by the Respondent through its Liquidator team. This acknowledgment was manifested in various documents, including an Account Payable Confirmation letter dated March 7, 2022, and its recording in the Schedule of Trade Payables dated December 31, 2021. In line with the initiated liquidation procedure, the Respondent's Liquidator team proactively invited the Applicant by letter dated July 7, 2023, to formally register its claim, which was then responded to by the Applicant by submitting its claim on August 10, 2023. This claim subsequently underwent a receivable verification process by the Liquidator team and was officially acknowledged and included in the List of Creditors' Receivables of PT Industri Sandang Nusantara dated June 28, 2024.

Although the claim's existence and amount had been acknowledged in the liquidation process, uncertainty regarding the timing of its settlement triggered an escalation of the dispute between the two parties. The Applicant, through a letter dated July 3, 2024, specifically requested information regarding the liquidation's progress and the payment's certainty. Responding to this request, the Liquidator team, via a letter dated July 8, 2024, stated that payment could not be made shortly due to a lack of cash and was still awaiting the realization of proceeds from the sale of the Respondent's assets. This response was deemed not to provide sufficient certainty for the Applicant, who then issued a first formal warning (First Demand Letter) on July 15, 2024, followed by a Second and Final Demand Letter on July 24, 2024, both of which were met by the Liquidator team with similar arguments regarding dependence on the procedural liquidation process and asset sales.

This uncertainty of payment subsequently prompted the Applicant to take further legal action. After issuing a declaration of default (*wanprestasi*) to the Respondent via a letter dated August 2, 2024, the Applicant formally declared the withdrawal of all its claims from the ongoing liquidation process through a letter dated August 5, 2024, while reserving the right to pursue other legal remedies. Although the Liquidator team responded by rejecting the withdrawal of the claim because the claim had already been recorded, the Applicant maintained its stance and subsequently filed a bankruptcy petition against the Respondent at the Commercial Court of the Central Jakarta District Court, which was then registered under Case Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst. This series of legal facts constitutes the primary background for examining and adjudicating the bankruptcy case analyzed in this research.

B. Juridical Examination of the Bankruptcy Petition against the State-Owned Company in Liquidation

The fundamental juridical basis for filing a bankruptcy petition against the Respondent rests on acknowledging the State-Owned Company's existence as a legal subject, notwithstanding its ongoing liquidation process. Article 143 section (1) of Law Number 40 of 2007 explicitly affirms that the dissolution of a Limited Liability Company does not automatically result in the loss of its legal entity status until the liquidation process is completed and the Liquidator's accountability is accepted. The direct implication of this provision is that a State-Owned Company entity in liquidation retains its capacity to possess rights and assume obligations, including the capacity as a debtor as defined in Article 1, point 3 of Law Number 37 of 2004. Thus, normatively, there does not impede a State-Owned Company in liquidation to be named as a Respondent, provided that other substantive bankruptcy prerequisites are met ([Simanjuntak, 2024](#)), as was also confirmed in the formal considerations of the Panel of Judges in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst.

Furthermore, fulfilling the requirement of two or more creditors, as mandated by Article 2 section (1) of Law Number 37 of 2004, becomes crucial in this juridical examination. In Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, the Applicant positioned itself as a creditor with a claim that had been acknowledged in the Respondent's liquidation process, as evidenced by the Verification Minutes dated April 25, 2024 (Exhibit P-10) and the List of Creditors' Receivables dated June 28, 2024 (Exhibit P-20/T-19). The existence of another creditor, namely PT Perusahaan Pengelola Aset, was convincingly proven by the Applicant through a series of Loan Facility Agreements along with their Addenda (Exhibits KL-1 to KL-7), whose claim was also recorded in the Liquidator's List of Receivables. The Panel of Judges' consideration in accepting the proof of the existence of another creditor through these documentary exhibits, including the List of Receivables which was notably compiled by the Respondent's own Liquidator Team, implicitly affirms that the physical presence of other creditors in court, as argued by the Respondent by referring to the Decision of the Chief Justice of the Supreme Court Number 109/KMA/SK/IV/2020 (Exhibit T-29), is not the sole means of proof, especially when the submitted documentary evidence has demonstrated the existence of a clear and verified claim.

The next crucial aspect is the proof of at least one payable that is due and collectible. The Respondent's payable to the Applicant, amounting to IDR 4,308,696,789.48, had been acknowledged by the Respondent through its Liquidator Team, both in the Trade Payable Confirmation (Exhibit P-7/T-15) and in the List of Creditors' Receivables. The juridical interpretation of the phrase

“due and collectible” as contained in the Elucidation of Article 2 section (1) of Law Number 37 of 2004 as well as the guidance in the Decision of the Chief Justice of the Supreme Court Number 109/KMA/SK/IV/2020 (page 49) indicates that a payable is deemed due, *inter alia*, if it has been agreed upon (Manangin, 2022), or if not stated in an agreement, then the due date is determined at the time the payable is demanded (Triwijaya et al., 2025). In this case, although the Respondent argued that payment awaited the proceeds from asset sales in the liquidation process, the fact that the Applicant had repeatedly made demands through Demand Letters (Exhibits P-13 and P-15) which were not fulfilled, was sufficient basis for the Panel of Judges to declare that the payable was due and collectible, thereby rendering the argument regarding the ongoing liquidation process not automatically suspending the collectible nature of said payable.

As stipulated in Article 8 section (4) of Law Number 37 of 2004, the simple evidentiary principle serves as the subsequent pillar in granting the bankruptcy petition. The elucidation of said article explicitly states that what is meant by “facts or circumstances that are proven simply” is the existence of facts of two or more creditors and the fact of a payable that is due and has not been paid. In this case, the accumulation of the submitted evidence, namely the acknowledgment of the payable by the Respondent itself, the existence of the Applicant’s claim and that of the Other Creditor in the List of Creditors’ Receivables compiled by the Respondent’s Liquidator Team, and the proof of non-payment despite demand letters having been issued, collectively met this simple evidentiary standard. The Panel of Judges was not obliged to examine in depth the intricacies or absolute validity of every detail of the debt agreement, but rather to examine sufficiently the existence of the principal facts that constitute the requirements for bankruptcy.

The Respondent’s main argument, namely that the ongoing liquidation process based on Government Regulation Number 14 of 2023 should be grounds for rejecting the bankruptcy petition and requesting an opportunity to settle obligations through asset sales, was expressly set aside by the Panel of Judges. The legal considerations of the Panel of Judges in Decision Number 34/Pdt. Sus-Pailit/2024/PN Niaga Jkt.Pst affirmed that the liquidation status of a legal entity does not automatically grant immunity against a bankruptcy petition, as long as the conditions stipulated in Article 2 section (1) of Law Number 37 of 2004 are met. Furthermore, the Panel of Judges also provided critical notes on the performance of the Respondent’s Liquidator Team, which, since its appointment in May 2023 until the petition was filed, had not yet succeeded in selling assets for payable settlement, thereby indirectly reinforcing the urgency and legitimacy of the Applicant’s pursuit of the bankruptcy route to obtain legal certainty for the repayment of its receivable.

Based on this series of juridical examinations, it can be concluded that filing the bankruptcy petition against PT Industri Sandang Nusantara has fulfilled all substantive and formal requirements as stipulated in Law Number 37 of 2004. The Respondent's capacity as a debtor legal subject (Nursaid & Yahanan, 2020), the existence of more than one creditor (Yonathan et al., 2025), the presence of a payable that was due and collectible (Rochmawanto, 2015), and the fulfillment of the simple evidentiary standard (Andani & Pratiwi, 2021), have all been convincingly proven in court. Therefore, the legal interpretation applied by the Panel of Judges in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, which granted the bankruptcy petition, aligns with Indonesia's prevailing principles and provisions of bankruptcy law.

C. Legal Consequences of the Bankruptcy Decision: Transition of Authority from the Liquidator to the Curator

Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, which granted the bankruptcy petition against PT Industri Sandang Nusantara, fundamentally gives rise to a series of significant legal consequences that drastically alter the debtor's juridical status and the mechanism for managing and settling its assets. The primary juridical implication of this declarative decision is the transition of PT Industri Sandang Nusantara into a state of bankruptcy, which means that all of the debtor's assets, by operation of law from the date the decision is rendered, are under general attachment (*generaal beslag*) as stipulated in Article 21 of Law Number 37 of 2004. This consequence directly affirms that the previously ongoing liquidation process under the provisions of Law Number 40 of 2007 must cease and be replaced by the collective and imperative mechanism of bankruptcy.

Another direct consequence arising from the operative part of the decision is the appointment of bankruptcy organs by the Panel of Judges, namely a Supervisory Judge and a Curator team, by the mandate of Article 15 section (1) of Law Number 37 of 2004. In this instance, Mr. Kadarisman Al Riskandar, S.H., M.H., was appointed as the Supervisory Judge tasked with overseeing the management and settlement of the bankruptcy estate and the performance of the Curator's duties. Furthermore, the Panel of Judges appointed Mr. Muhamad Arifudin, S.H., M.H., and Mr. Adnan Dika Prawira Wardhana, S.H., as the Curator team vested with full authority to carry out the tasks of managing and/or settling the bankruptcy estate of PT Industri Sandang Nusantara. The appointment of these Curators marks the beginning of the most essential transition of authority in the context of a State-Owned Company previously undergoing liquidation.

This transfer of authority fundamentally changes the landscape of managing the bankrupt debtor's assets and liabilities. According to Article 16 section (1)

in conjunction with Article 69 section (1) of Law Number 37 of 2004, from the date the bankruptcy declaration decision is rendered, the Curator is authorized to perform the tasks of managing and/or settling the bankruptcy estate, even if an appeal by Cassation or Judicial Review is filed against said decision. It means that the authority of the Liquidator Team, previously held by Mr. Nien Rafles Siregar, S.H., M.H., and Mr. Sony El Mars, S.H., based on Ministerial Decree Number S-283/MBU/05/2023, automatically, by operation of law, becomes null and void and is fully transferred to the newly appointed Curator team. This principle is also reinforced by Article 142 section (1) point e of Law Number 40 of 2007, which indicates that if a company is dissolved due to bankruptcy, its settlement process is subject to Law Number 37 of 2004, implicitly asserting the supremacy of the bankruptcy mechanism over the ordinary company liquidation process when bankruptcy conditions are met and a bankruptcy decision has been rendered.

Furthermore, as a direct consequence of the bankruptcy status, PT Industri Sandang Nusantara, as the bankrupt debtor, loses its right to control and manage all its assets and property included in the bankruptcy estate, effective from the date the bankruptcy decision is rendered, as affirmed in Article 24 section (1) of Law Number 37 of 2004. This right of control and management exclusively transfers to the Curator, who acts under the supervision of the Supervisory Judge ([Hariyadi, 2020](#)). The implications of this provision are extensive, encompassing all legal actions related to assets, collection of receivables, and legal representation of the bankrupt debtor in matters concerning the bankruptcy estate ([Mulyatno, 2022](#)). Thus, all strategic actions or decisions regarding the assets of PT Industri Sandang Nusantara no longer fall within the domain of the board of directors or the previous Liquidator team but become the full responsibility of the Curator team.

This transformation brings significant implications for asset settlement and the satisfaction of creditors' claims. The entire mechanism of asset settlement, from inventory, valuation, sale, to the distribution of proceeds, must be executed by the procedures and order of priority regulated in Law Number 37 of 2004, no longer based on the settlement plan prepared by the Liquidator Team within the framework of Law Number 40 of 2007. Creditors, including the Applicant and other creditors whose claims were acknowledged in the liquidation process, generally must resubmit or re-verify their claims to the Curator by the procedures for lodging and verifying receivables in bankruptcy ([Lie et al., 2019](#)). It aims to ensure the achievement of the principles of *paritas creditorium* and *pari passu prorata parte* ([Sinaga & Maulisa, 2022](#); [Zahlan et al., 2023](#)), except for creditors who possess fundamental security rights or other privileged rights recognized by law ([Lo et al., 2025](#)).

More broadly, the bankruptcy status also brings various other legal consequences for PT Industri Sandang Nusantara, such as the potential termination or amendment of ongoing contracts according to Article 36 of Law Number 37 of 2004, and the possibility for the Curator to undertake specific legal actions like *actio pauliana* based on Article 41 of Law Number 37 of 2004 to annul legal acts of the debtor detrimental to creditors' interests that were performed before the bankruptcy decision was rendered. Although an in-depth analysis of these aspects is beyond the direct scope of the transition of authority, it is important to note that bankruptcy status opens up a series of juridical consequences far more complex and comprehensive than an ordinary liquidation process.

Thus, it is clear that the primary legal consequence of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst for PT Industri Sandang Nusantara is the complete takeover of the asset management and settlement process from the liquidation regime of Law Number 40 of 2007 to the bankruptcy administration regime of Law Number 37 of 2004. The transition of authority from the Liquidator Team to the Court-appointed Curator team is a concrete manifestation of the supremacy of bankruptcy law in ensuring the collective and structured settlement of debts for the benefit of all creditors, while simultaneously ending the uncertainty that might arise from a liquidation process proceeding without a definitive timeframe.

D. The Intersection of Two Regimes: Critical Reflections on the Legal Relationship between Liquidation and Bankruptcy in Indonesia

The intersection between the legal regime of company liquidation as regulated in Law Number 40 of 2007 and the legal regime of bankruptcy based on Law Number 37 of 2004 inherently gives rise to juridical complexities that demand in-depth examination. Liquidation, as an asset settlement process aimed at orderly terminating a company's existence, often has a different focus and mechanism compared to bankruptcy, which is designed as an instrument for the collective and simultaneous settlement of debts (*concurso creditorum*) when a debtor is no longer able to meet its obligations (Pratama, 2021). Although both culminate in the settlement of the debtor's assets, fundamental differences in terms of triggers, the party controlling the process (Liquidator versus Curator), the level of judicial supervision, and the priority of interest protection (shareholders in voluntary liquidation versus creditors in bankruptcy) often create grey areas that require judicial interpretation to achieve legal certainty.

The judicial interpretation embodied in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst provides an important affirmation regarding the prevalence of bankruptcy law when its substantive requirements are met, even if

the Limited Liability Company debtor is undergoing a formal liquidation process. By granting the bankruptcy petition against PT Industri Sandang Nusantara, the Panel of Judges implicitly and explicitly affirmed that the liquidation condition does not automatically grant immunity or suspend the applicability of Law Number 37 of 2004. The firm rejection of the Respondent's argument requesting the continuation of the liquidation process, with an emphasis on the fact that the requirements of Article 2 section (1) of Law Number 37 of 2004 had been proven, indicates that from the Commercial Court's perspective, the urgency of protecting creditors' collective interests through the bankruptcy mechanism can override an ongoing liquidation process, especially if such liquidation process is deemed not to provide adequate certainty or effectiveness in debt settlement, as implied by the Panel of Judges' note regarding the lack of asset sales by the Liquidator over a significant period.

The rationale underlying the preference for the bankruptcy mechanism in such situations can be traced to several fundamental postulates of bankruptcy law. Bankruptcy offers a more structured, transparent, and comprehensive framework for managing and settling the bankruptcy estate under the supervision of a Supervisory Judge and with the central role of an independent Curator ([Silalahi & Purba, 2020](#)). This mechanism also provides a fairer forum for all creditors to submit and verify their claims ([Hudyarto, 2021](#)), and ensures the proportional distribution of asset settlement proceeds according to legally mandated priority rights ([Putri & Lie, 2023](#)). Furthermore, legal instruments such as *actio pauliana* in Law Number 37 of 2004 grant the Curator stronger authority to recover debtor's assets that may have been detrimentally transferred prior to the bankruptcy declaration ([Kamilah, 2021](#)), an authority not explicitly possessed by a Liquidator under Law Number 40 of 2007, thereby providing more optimal protection for the bankruptcy estate.

Although this decision provides a precedent that clarifies the legal position of bankruptcy *vis-à-vis* liquidation in practice, the discourse regarding deeper harmonization and synchronization between these two regimes remains relevant. Several practical juridical questions may still require further elaboration, for instance, regarding the legal status of legal acts performed by the Liquidator prior to the bankruptcy declaration, the detailed mechanism for the handover of assets and documents from the Liquidator to the Curator, and the potential liability of the Liquidator if actions detrimental to the Company's assets occurred before they were transferred to the Curator. Although Law Number 37 of 2004 and Law Number 40 of 2007 have provided some guidelines, the detailed implementation in concrete cases like this often still depends on judicial interpretation and the professional practices of Curators and Liquidators, which ideally need to be

supported by technical guidelines or even legislative refinements to minimize potential future disputes.

Further implications can be reviewed from the perspective of a State-Owned Enterprise debtor in the form of a State-Owned Company, such as PT Industri Sandang Nusantara. Although in Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst, the Panel of Judges stated that the Respondent was not a State-Owned Enterprise engaged in public interest activities as referred to in Article 2 section (3) to section (5) of Law Number 37 of 2004², and thus could be bankrupted by private creditors, this case nevertheless underscores that a State-Owned Company conducting business activities and accumulating commercial debts is, in principle, subject to the same bankruptcy law regime as other private entities. The government's decision to dissolve and liquidate a State-Owned Company does not automatically negate creditors' rights to seek resolution through bankruptcy if the liquidation process is deemed ineffective or detrimental to creditors' interests. It highlights the importance of good governance and prudent risk management in administrating State-Owned Enterprises, even up to their dissolution stage ([Sirait et al., 2025](#)).

Overall, the legal affirmation through Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst reinforces the principle that bankruptcy law is an *ultimum remedium* accessible to creditors when other debt resolution mechanisms, including formal liquidation processes, fail to provide certainty and justice. This decision contributes to the jurisprudence concerning the interaction between company law and bankruptcy law, while also opening space for ongoing reflection on how these two legal regimes can be better synergized to achieve optimal efficiency, fairness, and legal certainty for all stakeholders in the Indonesian economic dynamics.

CONCLUSIONS AND SUGGESTIONS

Based on the comprehensively elaborated results and discussion, it can be concluded that the juridical existence of a State-Owned Company undergoing a liquidation process does not automatically impede or grant immunity against the filing of a bankruptcy petition by its creditors. The analysis of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst unequivocally affirms that as long as the substantive requirements as stipulated in Article 2 section (1) of Law Number 37 of 2004 – namely the existence of at least two creditors and at least one payable that is due and collectible – can be simply proven by the provisions of Article 8 section (4)

²Article 2 section (3) to section (5) of Law Number 37 of 2004, insofar as they concern Banks, Securities Companies, Stock Exchanges, Clearing and Guarantee Institutions, Depository and Settlement Institutions, and Pension Funds, have been repealed by Article 327 of Law Number 4 of 2023.

of Law Number 37 of 2004, then the debtor's liquidation status does not serve as a justification for the Commercial Court to reject the bankruptcy petition. It is based on the fundamental principle that a State-Owned Company in liquidation retains its status as a legal subject until the liquidation process is completed and the Liquidator's accountability is accepted, thereby its capacity as a debtor that can be petitioned for bankruptcy remains inherent.

Furthermore, a bankruptcy decision rendered against a State-Owned Company in liquidation brings about a fundamental legal consequence in the form of an immediate cessation of the liquidation process previously running under Law Number 40 of 2007. Subsequently, the entire management and settlement of the bankrupt debtor's assets fully transitions into bankruptcy law. The primary consequence of this transition is the total transfer of authority from the Liquidator team to the Curator appointed by the Commercial Court, under the supervision of the Supervisory Judge. Thus, all assets of the bankrupt debtor enter into a general attachment (*generaal beslag*), and their management is subject to the mechanisms and procedures regulated in Law Number 37 of 2004, which aims to ensure a collective, fair, and transparent settlement of payables for all creditors. The assertion of bankruptcy law's supremacy in such cases reflects the priority of protecting the interests of all creditors simultaneously when the liquidation process fails to demonstrate effectiveness or certainty in fulfilling their rights.

Drawing from the elucidated conclusions and the juridical dynamics revealed through the analysis of Decision Number 34/Pdt.Sus-Pailit/2024/PN Niaga Jkt. Pst, several aspects are relevant for constructive suggestions. *First*, legislators and policymakers may consider further study to refine or provide more explicit guidance in statutory regulations regarding the transitional mechanisms and coordination between the liquidation process of a State-Owned Company and its bankruptcy process. Although bankruptcy law possesses a compelling nature that overrides other processes, more detailed regulation concerning the status of legal acts performed by the Liquidator prior to bankruptcy, procedures for the handover of assets and documents to the Curator, and other procedural aspects could enhance legal certainty and minimize potential disputes or inefficiencies during the transition period between these two legal regimes.

Second, for legal practitioners, whether Liquidators, Curators, or Advocates handling similar cases, this research underscores the importance of a comprehensive understanding of the interaction between Law Number 40 of 2007 and Law Number 37 of 2004. Liquidators should be aware that the liquidation process they conduct is not immune from bankruptcy petitions if payables are due and unpaid and other bankruptcy requirements are met, thus rendering transparency and good faith settlement efforts towards all creditors essential. For curators, a thorough understanding of the history of

prior liquidation is crucial in effectively managing and settling the bankruptcy estate. Meanwhile, for academics and future legal researchers, there is scope for comparative studies on the handling of the intersection between liquidation and bankruptcy in other jurisdictions, or empirical research on the effectiveness of bankruptcy estate settlement in cases of State-Owned Company that have previously undergone liquidation, in order to enrich the repository of Bankruptcy Law and Limited Liability Company Law studies in Indonesia.

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