

ABSTRACT

The enforcement of Bankruptcy Act in Indonesia requires at least two or more creditors that are not paying at least one debt obligation. It can be used as a condition to request bankruptcy situation without considering the solvency of the company in imposing a bankruptcy decision.

The present study is conducted in order to elaborate philosophical landscape in regard to the implementation of solvency principal due to the enforcement of Bankruptcy Act in Indonesia. Furthermore, the present study also tries to examine legal protection toward solven debtor that holds good principal and possess ratio decidendi in determining solvency to reject a request for bankruptcy even though it has fulfilled bankruptcy requirements.

The present research is a normative legal research relating to the principles and norms of bankruptcy law regarding solvency in bankruptcy law in Indonesia using the statute approach, conceptual approach, comparative approach and case approach.

The results showed that the philosophical foundation of insolvency testing is not applied within Indonesian law since legal debt system in Indonesia is quiet easy. Simplicity of debt system in Indonesia since it will potentially be detrimental to many creditors because the proof can no longer be done simply. Legal protection for solvent debtors in good faith is obtained repressively by proving before the trial that the debtor is still in a solvent condition. The court's decision to refuse a bankruptcy request against a company which is still solvent based on the verification of condition cannot be carried out simply because the debtor can show that the assets owned by the company are greater than the amount and if the request for bankruptcy is granted it will have a greater impact on the investment climate in Indonesia

Keywords: Bankruptcy, Solvability, Good Faith.