

ABSTRACT

**BANKRUPTCY OF GUARANTOR (*BORG*) FOR THE DEBTOR'S
DEFAULT THAT HE GUARANTEES**

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Submitting a request for a bankruptcy petition against the guarantor starts to attract the interest of banks in settling debts. Judging from the decisions of granting or rejecting the application for a bankruptcy petition against the guarantor (*borg*) is due to the absence of norms both in the guarantee law (*borgtocht*) and bankruptcy law. The legal issue in this research is about what are the principles of personal guarantee (*borgtocht*) and ratio decidendi of a judge in passing the verdict on the request for bankruptcy petition against the guarantor (*borg*).

This research is a normative legal research with a statute approach, a conceptual approach, case approach, and a comparative approach. This study found the principle of bankruptcy which can be applied against the guarantor (*borg*) due to guarantor as debtor principle in which the guarantor's (*borg*) position is as a debtor who does not do his obligation in personal guarantee (*borgtocht*).

The judge's *ratio decidendi* in rejecting the request of bankruptcy petition against the guarantor (*borg*) before the existence of UUK which was then changed into UKK PKPU was when the position of the guarantor (*borg*) could not be equated with the position of debtor due to the validity of guarantor as guarantor principle; therefore, the guarantor (*borg*) can not be asked to be bankrupt for any defaults made by the debtor. *Ratio decidendi* of the judge in accepting the request of bankruptcy petition against the guarantor (*borg*) after the existence of UUK until the enactment of UUK PKPU is when the guarantor (*borg*) has waived the rights and fulfill the bankruptcy requirements by having two or more creditors with at least one due and payable, and there is a fact or condition which simply proven that the requirements have been fulfilled. *Ratio decidendi* of the judge in rejecting the request of bankruptcy petition against the guarantor (*borg*) after the existence of UUK until the embactment of UKK PKPU is due to not fulfilling the the bankruptcy requirements eventhough the guarantor has waived his rights

Keywords: Bankruptcy, Personal Guarantee (*Borgtocht*), Guarantor (*Borg*), Guarantor As Debtor Principle, *Ratio Decidendi*.