

ABSTRACT

Naghfir, 10220067, Islamic Law Observation on The Adjudication Given by Commercial District Court of Surabaya Related to The Bankruptcy of Dewata Abdi Nusa Limited Company. Thesis, Syari'ah Business Law. Faculty of Syari'ah, the State Islamic University of Maulana Malik Ibrahim, Malang.

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Global economic challenge drives the subjects of business to prepare themselves in solving this kind of problem. Nowadays, the rapid development of business indicates that the problem is highly complex. In a business world between salespersons and costumers and between creditors and debtors, they have reached an agreement to cooperate. During the process of building up a new corporation, they make an agreement or contract which legally strengthens their positions in the court if problem or dispute is emerged later on. For Instance, the dispute emerged because of the breach of a contract which has been agreed such as the dispute between BRI limited company and GrahaDewata limited company. Because of this problem, the third party is lost out, since DewataAbdi Nusa has been bankrupt.

Through the observation, the writer arranges the research question as follows: 1) what are the jurisdictional consequences of the bankruptcy adjudication of DewataAbdi Nusa limited company to the mortgage in the name of others? 2) What is the method used by the judge in formulating the bankruptcy adjudication of DewataAbdi Nusa limited company? 3) What is the significance of the bankruptcy adjudication of DewataAbdi Nusa limited company according to the Islamic law? In this case, Islamic law is seen as the integration between private law and Islamic law which would open our intellectual paradigm in accordance with bankruptcy law stated in UU No. 37 tahun 2004. Besides, this observation is included in normative Data analysis methods used are various analysis which are used as a direction in writing thesis.

The result of the observation explicates that the jurisdictional consequences of the bankruptcy adjudication given by commercial district court of Surabaya has change the legal status of the citizen as the legal owner of the asset which is up the spout by GrahaDewata limited company to the party of BRI. Later on, during the process of judgment, the judge does not review any facts and does not consider any consequence so that the third party is lost out in the application of the legislation especially, UU No. 37 Tahun 2004. In Islam, when the debtor cannot pay off their debt, so the creditors should give them a chance until they are able to pay off their debt. This case is explained in surah Al-Baqarah: 280 which mean: *"Dan jika (orang yang berutang itu) dalam kesukaran, Maka berilah tangguh sampai Dia berkelapangan. dan menyedekahkan (sebagian atau semua utang) itu, lebih baik bagimu, jika kamu mengetahui.."*