

Problematics of Simple Evidence Regulations for Addendums to Sales and Purchase Agreements in Pkpu Applications that are Not Based on Justice Values

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Abstract

Bankruptcy Law and Suspension Obligation Debt Payment (PKPU) in Indonesia adopts principle proof simple as instrument main For ensure a fast, efficient and certain judicial process law. This principle requires fulfillment element the presence of two or more creditors and debts that have been due and can billed. However, in practice justice commerce, implementation proof simple often done in a way formalistic and neglectful complexity connection the law of the parties, in particular when agreement sell buy has experience change through addendum. In fact, in law contract, addendum is the part that is not inseparable from agreement principal and have strength the same law after agreed upon by the parties. Research This aim For analyze regulations proof simple in PKPU submission based on addendum agreement sell buy, and evaluate to what extent the regulations and their implementation has reflect mark justice. The research method used is approach juridical normative empirical with type study qualitative. Data obtained through studies literature to regulation legislation, doctrine, and decisions court, as well as studies field through interviews. Data analysis was carried out use analysis content with the interactive model of Miles and Huberman for identify pattern implementation laws and inconsistencies decision. Research results show that regulations proof simple in PKPU not yet give guidelines clear normative about position addendum as fact law. As a result, judges have room broad and tending discretion put forward efficiency procedural compared to justice substantive. Inconsistency decision court commerce in assessing the addendum shows weakness certainty law and imbalance protection between creditors and debtors. Research This conclude that without reformulation regulations and standards implementation proof simple, basic the potential Keep going reproduce injustice in PKPU practices.

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1. INTRODUCTION

Bankruptcy Law and Suspension Obligation Debt Payment (PKPU) in Indonesia is designed For ensure certainty law at a time protect interest creditors and debtors in a way balanced. Law Number 37 of 2004 concerning Bankruptcy and PKPU place principle proof simple as element central in inspection application bankrupt and PKPU. This principle requires that application must granted if proven in a way simple the presence of two or more creditors and the existence of debts that have been due date and can billed. Concept This

intended For create a fast, concise and efficient judicial process, considering case bankruptcy concerning interest broad economy.

However Thus, the proof simple in practice often understood in a way narrow and formalistic. Commercial judge tend only evaluate existence of debt based on document contractual without dig more in substance connection the law of the parties. In fact, according to Sudikno Mertokusumo, enforcement law No solely based on certainty normative, but also must be notice justice and benefit so that the law No lost legitimacy social. When the proof simple implemented in a way stiff, value justice substantive potential neglected.

Problem justice become the more complex when PKPU application is based on an agreement sell buy what has been experience change through addendum. In law contract, addendum is the part that is not inseparable from agreement principal and have strength the same law after agreed upon by the parties. Munir Fuady explain that change contract through addendums often containing adjustment important to the rights and obligations of the parties, so No can released from context agreement in a way overall. Therefore that, existence addendum in a way juridical potential cause difference interpretation about birth of debt, time due date, as well as can or whether or not something obligation qualified as a debt that can be billed.

In practice justice commerce, addendum agreement sell buy often No considered in a way intact. Judges often only highlight One clause certain, such as clause fine or delay payment, for conclude the existence of debt. Approach This reduce dispute complex contractual become debt problem alone, so that blur fact the real law Still disputed. According to Sutan Remy Sjahdeini, the tendency This show existence domination protection to creditors in law Indonesian bankruptcy, while position debtor become relatively weak.

Injustice is also reflected from inconsistency decision court commerce in apply principle proof simple. In some case, the PKPU application was granted although there is dispute substantial related implementation agreement sell purchase and its addendum. On the other hand, in case otherwise, the PKPU application was rejected Because assessed need proof complex continuation. One of the example is Decision Court Commercial Case at Semarang District Court Number 20/PKPU/2022/PN Commercial Smg, where the panel of judges granted PKPU application with base consideration of the existence of clause fine in agreement sell buy as a debt that has been due and can charged. In the case this, although there is addendum agreement sell potential purchase cause dispute substantial related implementation obligations of the parties, the panel of judges does not evaluate complexity connection law said and remains consider the proof fulfil principle proof simple.

On the contrary, in Decision Court Commercial Case at the Central Jakarta District Court Number 289/ Pdt.Sus -PKPU/2021/ PN.Niaga.Jkt.Pst involving PT My Indo Airlines and PT Garuda Indonesia Tbk, the panel of judges actually reject PKPU application. The judge is of the opinion that existence difference interpretation related obligation payment tax (VAT) incurred from agreement and its addendum cause proof of debt is not Again nature simple and requires proof complex continuation. Therefore that, the PKPU application was declared No fulfil provisions of Article 8 paragraph (4) jo. Article 222 paragraph (3) of the Law Bankruptcy and PKPU.

Inconsistencies are also apparent in Case Number 2/ Pdt.Sus-Homologasi /2024/PN Niaga Smg, which is related with implementation agreement peace the results of the PKPU between PT Sri Rejeki Isman Tbk (PT Sritex) and its creditors. In this case this, the court evaluate failure fulfil obligation payment as set in decision homologation as a clear and

payable debt billed, so that aspect proof simple considered fulfilled without take issue with background behind connection contractual previously. Difference This show that proof simple Not yet own standard clear and uniform implementation. M. Yahya Harahap confirm that inconsistency implementation procedural law will impact straight to uncertainty law and injustice for the parties.

From the corner view theory system Lawrence M. Friedman's law, conditions the reflect weaknesses in aspects substance and structure law. Norms of proof simple in Article 8 paragraph (4) of the UUK & PKPU is of a nature ambiguous and open room multi-interpretable, while apparatus enforcer law Not yet own pattern consistent application. As a result, the law walk more as mechanism procedural than as instrument justice.

In addition, culture evolving laws in practice bankruptcy tend emphasize efficiency and speed settlement matter. Orientation This push use principle proof simple as tool legitimacy For cut off case in a way fast, though potential sacrifice justice substantive. Gunawan assessed that in context business, approach too much law procedural can open room abuse mechanism law by an unauthorized party good faith Good.

With thus, it becomes important For study about regulations proof simple in addendum agreement sell buy to PKPU application that has not been submitted justice, which causes inconsistency decision, because existence ambiguity addendum position and also failure regulations in guard balance interests. A sas proof simple as it should be become means efficiency precisely potential ignore complexity connection law contractual and give rise to imbalance protection between creditors and debtors. Unclear norms, inconsistency implementation, as well as domination approach formalistic become factor main cause mark justice Not yet come true optimally in PKPU practices.

2. METHODOLOGY

Study This use approach juridical normative empirical, namely a combined approach study against legal norms written with analysis its implementation in practice. Approach normative directed For examine principle related laws, rules and doctrines with proof in case civil and bankruptcy, whereas approach empirical used For understand How provision the executed in practice justice. Through approach this research make an effort identify gap between applicable law in a way normative and reality its implementation, in particular in context proof simple to addendum agreement sell buy in the PKPU process. Approach juridical normative empirical allows analysis law done in a way more intact Because No stop at text regulations, but also pay attention to behavior apparatus enforcer law and the parties involved.

Type of research used is study qualitative, because object study focus on understanding meaning, interpretation, and practice application of legal norms, not on quantitative data measurements. The data used sourced from material primary, secondary and tertiary laws are studied in a way systematic, as well as supported by empirical data through interview. Approach qualitative chosen Because capable dig in a way deep How proof simple understood and applied by judges, practitioners law, as well as the litigants. With method this research can reveal pattern reasoning law, consideration juridical, as well as trend practice growing evidence in PKPU case. Analysis qualitative also allows researchers do criticism to implementation of legal norms and formulating recommendation repairs of a nature prescriptive.

Data collection was carried out through studies literature and studies field, which is next analyzed use analysis content analysis. All data obtained inventoried, classified, and analyzed in a way deep For find pattern, consistency, and relevance with objective research.

For ensure data validity, research This apply technique triangulation, namely compare data from various sources and methods use get level more trust tall.

Data analysis process refers to the interactive model of Miles and Huberman which includes stage data collection, data reduction, data presentation, and data extraction conclusion. Through stages said, research This expected capable produce valid conclusions as well recommendation applicable normative in effort improvement regulations proof simple.

3. FINDINGS AND DISCUSSION

A. Regulation Proof Simple in PKPU and Problems Justice

Regulation proof in PKPU cases in general normative based on the principle proof simple, as adopted from regime bankruptcy in Constitution Number 37 of 2004. This principle intended For ensure efficiency settlement debts and receivables matters, with emphasize proof of the existence of debt that has been maturity and existence more from One creditors. However, in practice, application principle proof simple precisely raises justice problems when faced with a relationship the law that has been experience change through addendum agreement sell buy. Existing regulations No give limitation clear normative about how the addendum should be treated in the PKPU proof process, so that the existence of addendums is often ignored in order to maintain the “simple” label in proof.

Absence arrangement explicit This cause proof in PKPU tends to nature formalistic. Judges are more emphasize existence initial debt document without evaluate in a way substantive whether obligation the has modified, postponed, or even diverted through an addendum. In fact, in law agreement, changes agreement of the parties own strength bind the same with agreement principal. With putting aside the addendum, the PKPU process has the potential injure principle justice Because debtor stated default on obligations that are juridical has changed. Condition This show that regulations proof of PKPU has not been capable accommodate complexity connection contractual in a way fair.

Besides the problem of absence arrangement explicit, implementation proof simple in PKPU also shows trend reduction meaning justice procedural. Principle of proof simple often understood in a way narrow as restrictions room judge's examination, not as instrument For reach justice in a way proportional. In practice, the proof simple treated as if prevent the judge from evaluate overall connection the law of the parties, including changes that arise from agreement continued. In fact , civil procedural law No prohibits judges from evaluate fact law throughout Still relevant with main matter. When the principle proof simple made into reason For put aside fact important contractual, then principle the has shift from means efficiency become barrier justice. Conditions This show that regulations proof simple in PKPU not yet placed in framework protection rights of the parties in a way balanced.

More far, proof simple in PKPU also has the potential violate principle justice substantive if implemented without consider principle good faith good and balance of the parties. Debtors who have do renegotiation obligation through addendums often remain positioned as party negligent only Because creditors can show formal proof of initial debt, such as what happened in the case Number 20/PKPU/2022/PN Niaga Smg where in case this, although there is addendum agreement sell potential purchase cause dispute substantial related implementation obligations of the parties, the panel of judges does not evaluate complexity connection law said and remains consider the proof fulfil

principle proof simple. Approach This ignore fact that law agreement confess change the will of the parties as source valid and binding law. With Thus, the proof simple that is not give room for evaluation substance connection law has create inequality profitable structure creditors and detrimental debtor. This is confirm that without reformulation regulations, principles proof simple in PKPU has the potential Keep going reproduce institutionalized injustice in practice justice commerce.

B. The Position of the Sale and Purchase Addendum as an Ignored Legal Fact

In perspective law civil, addendum to agreement sell buy is an integral part of the contract that was born from principle consensualism and freedom contract. Addendum does not only nature administrative, but rather can contain fundamental changes to object agreement, value transaction, time implementation, as well as mechanism fulfillment achievement. Therefore that, the addendum should be treated as fact law main in the process of proof , not just tool proof additional. However, in PKPU practice, the existence of addendums is often not considered in a way adequate Because considered complicate proof and removal characteristic simplicity matter.

Injustice appear when regulations proof of PKPU not provide mechanism For evaluate the substance of the addendum in proportional. The judge is faced with a dilemma between guard principle proof simple and digging truth material connection the law of the parties. In many decision, choice fall on efficiency procedural, so the addendum is ignored although in a way factual has change structure obligation debtor. This is contradictory with objective civil procedural law that does not only chase certainty procedural, but also justice substantive. With Thus, the regulation proof that ignores the addendum has put debtors in an unfavorable position balanced and reduced meaning justice in PKPU.

Besides being ignored in evaluation substance obligations, addendum to agreement sell buy often too No placed as instrument decisive evidence in evaluate existence default. In law proof civil, a obligation only can stated negligent if has fulfil element due and not filled as promised. However, when the addendum is explicit load change about time, manner, or condition fulfillment performance , then the default parameters No Again can referring to the agreement early. Research This show that PKPU practices often ignore principle the with still use agreement main as base debt assessment, although has there is agreement legal and binding continuation. Abandonment This No just error technical proof, but rather reflect failure regulations in protect fact laws that were born from the will of the parties, so cause injustice substantive in the PKPU process.

C. Inconsistency Judgments and Legal Uncertainty

Injustice regulations proof of addendum in PKPU is increasingly seen from inconsistency decision court commerce. In some case, the existence of the addendum is considered No relevant and the PKPU application remains granted, while in case other, complexity connection law precisely made into reason For reject application with pretext proof No simple. Difference approach This show that No existence standard normative about proof of addendum has been open room broad subjectivity for judges. As a result, the parties No own certainty about How addendum document will assessed in the PKPU process.

Inconsistency This impact straight to justice procedural and substantive. Creditors can utilise blurriness regulations For submitting PKPU even though

connection law has restructured through an addendum, while debtor lost protection the law that should be given by change agreement said. Condition This show that regulations proof of PKPU has not been functioning as instrument justice, but rather more as tool acceleration settlement potential cases sacrifice the rights of the parties.

Inconsistency decision court can seen from analysis on the table comparison a decision that illustrates existence inconsistency in implementation proof simple as well as shift orientation to justice.

**Analysis Table Comparison Decision Related Proof Simple in Procedure
Bankruptcy and Suspension Obligation Debt Payment (PKPU)**

No	Decision	Issue main / document addition	The judge's attitude towards proof simple	Orientation dominant	Outcome	Implications to justice & certainty
1	No. 20/ Pdt.Sus - PKPU/2022/PN Niaga Smg	Addendum / guarantee new : submission HGB certificate as mechanism replacement / guarantee obligation	Existence addendum No considered changing the formal test ; focus on debts due and ≥ 2 creditors	Procedural (loose)	PKPU granted	'simple' standard becomes elastic ; debtor potential lost room defense addendum based
2	No. 289/ Pdt.Sus - PKPU/2021/PN Niaga Jkt Pst	Dispute calculation tax (PPh /PPN) and differences mark debt	Case assessed No simple Because quantity / components debt not yet sure and still debated	Procedural (strict)	PKPU rejected	Certainty depends on certainty numbers ; creditors potential harmed even though There is connection contractual
3	No. 12/ Pdt.Sus - PKPU/2021/PN Niaga Smg	Corporate guarantee and structure the greater party complex (guarantor /multi-respondent)	Still considered simple throughout there are debts due and ≥ 2 creditors	Procedural (loose)	PKPU granted	Expand application to guarantors ; enlarge need indicator When case go out from 'sumir' category
4	No. 59 PK/ Pdt.Sus- Bankruptcy /2022 (MA)	Feasibility and fairness test content peace (homologation)	Focus shift to substantive testing : fairness and appropriateness	Substantive	Homologation cancelled ; debtor bankrupt	Confirm correction for fairness outcome; formality

			peace (protection) creditors minority)			agreement majority No always Enough
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Source : Data compiled by researchers based on decision relevant courts.

D. Failure Regulation in Guard Balance Interest

Within the framework theory system law, problems proof of addendum in PKPU reflects failure regulations in guard balance between certainty law, utility, and justice. From the perspective of substance, law Bankruptcy and PKPU do not provide adequate norms about addendum treatment in proof. From the side structure, no there is guidelines uniform technical for commercial judges in evaluate complexity connection contractual. While from side culture law, PKPU practice still dominated by orientation efficiency economy that places speed above justice substantive.

As a result , the principle proof simple as it should be become means protection precisely changed become tool legitimacy injustice. Regulations that are not sensitive to change connection law through the addendum has create inequality position between creditors and debtors. Therefore that, can concluded that regulations law proof addendum sell buy in the PKPU process at the moment This Not yet fair, because fail accommodate reality contractual and neglect principle protection rights of the parties in a way proportional.

Failure regulations in guard balance interests are also visible from No existence differentiation treatment between pure debt disputes and disputes originating from from connection contractual that has been restructured. PKPU regulations are still treat all over application in a way uniform with emphasize fulfillment condition formal, without provide mechanism filtering For evaluate whether dispute the should completed through lawsuit civil usual. As a result, PKPU often made into means strategic by creditors For pressing debtor, even though substance connection law of the parties Still debated in a way serious. Condition This reflect failure regulations in guard balance interests, because efficiency procedural more prioritized compared to protection to rights contractual that has been agreed upon by the parties.

In addition, regulations proof of PKPU has not been give adequate protection to position debtor as parties who are economic and structural more vulnerable. In practice, debtors often in a position defensive Because must deny debt claims in framework proof simple limited. When the addendum that should be become base restructuring obligation No considered in a way substantial, debtor lost instrument legitimate defense. This is contradictory with principle balance of the parties in law agreement, which demands that each change agreement respected and protected by law. With Thus, the PKPU regulation failed operate function the corrective as instrument protection law, and in fact widen inequality position between creditors and debtors.

More far, failure guard balance interests are also related with orientation policy PKPU law is too emphasize stability economy and certainty transactions, without balanced with guarantee justice substantive approach This cause principle proof simple treated as purpose, not as tools. In perspective theory system law, condition the show disharmony between substance laws and objectives social law That itself. Regulations that do not adaptive to dynamics contractual, such as the existence of the addendum, in the end weaken legitimacy of PKPU as mechanism settlement fair dispute. Therefore

that , update regulations proof become need urge for balance interest between creditors and debtors can realized in a way proportional and fair.

4. CONCLUSION

The first conclusion that can be drawn is withdrawn from study This is that regulations proof simple in the PKPU process normative Not yet capable accommodate complexity connection the law that has been modified through addendum agreement sell buy. Principle of proof simple adopted from regime bankruptcy intended For ensure efficiency and certainty law, however in in practice precisely tend implemented in a way formalistic. Existing regulations, especially Constitution Number 37 of 2004 concerning Bankruptcy and PKPU, no provide clear parameters about how the addendum should be treated in the process of proof. As a result, the existence of addendums is often ignored or reduced become just document complement, even though in a way juridical addendum is the part that is not inseparable from agreement principal and have strength binding the same. Condition This cause proof in PKPU often only focuses on the existence of initial debt, without consider change substantial to the rights and obligations of the parties, so cause injustice substantive for debtor.

Second, research This show that ambiguity regulations proof of impact of addendum straight to the inconsistency decision court trade and weaken certainty law . In practice, there are difference significant in the judge's attitude towards the existence of an addendum, even in matters with relative characteristics similar. In one case, addendum is considered No relevant and the PKPU application remains granted, while in case other, complexity connection contractual precisely made into reason For reject application Because proof assessed No simple. Inconsistency This reflect weakness standard implementation principle proof simple as well as its area room subjectivity of judges in interpreting norms. As a result, the parties, both creditors and debtor no own certainty about How fact law will assessed in the PKPU process. The situation This open opportunity occurrence inequality protection law, where creditors tend be in a better position benefited, while debtor lost room defense on change obligations that have been agreed in a way legitimate via addendum.

Third , in general systemic, research This confirm that injustice in proof addendum agreement sell buy in PKPU is reflection from failure regulations in guard balance between certainty law, utility, and justice. From the perspective of substance law, norms of proof simple Still nature ambiguous and open room multiple interpretations. From the side structure, not yet there is guidelines uniform technical for commercial judges in evaluate complexity connection contractual. While from side culture law, PKPU practice still dominated by orientation efficiency and speed settlement matters, which often sacrifice inspection substantive to fact law. As a result, the principle proof simple as it should be become means protection precisely potential become tool legitimacy institutionalized injustice. Therefore that, research This confirm urgency reformulation regulations proof in PKPU, in particular related position of addendum to agreement sell buy, so that the PKPU process does not only fulfil certainty procedural, but also embodied justice substantive and balance protection law for all over parties involved.

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