

## **'Superstar Fitness' Default Dispute for Negligence in Contract Agreement**

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### **Abstract**

*The dispute case between PT Cipta Usaha Amerta Nusantara and its creditors reveals the complexity of default in the implementation of the interior construction service contract. This research aims to analyze (1) the legal position of contract agreements in bankruptcy cases, (2) the application of the concept of debt as a form of default in treaty law, and (3) the legal possibilities that creditors have to recover their rights in the form of compensation, interest, or costs. The research method used is normative legal method with prescriptive and hermeneutic approaches. The decision of the Commercial Court at the Central Jakarta District Court shows that the bankruptcy petition cannot be granted because the minimum requirement of two legitimate creditors is not met. Nevertheless, the respondent's negligence in fulfilling its payment obligations towards the applicant and other parties, both employees and customers, showed a clear default. This research also reveals that creditors have a strong legal basis to demand the fulfillment of rights through default lawsuits and bankruptcy if the formal requirements are met. Therefore, more careful contract management and an adequate company financial monitoring system are required to avoid widespread losses for the parties involved.*

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## **1. INTRODUCTION**

A contract is a written agreement that provides a guarantee for parties with a legal relationship to maintain their rights and fulfill their obligations. According to Agus Yudha Hernoko, the function or significance of a contract is as a legal forum for the parties to express their respective rights and obligations, within the framework of the rules of the game. This contract also functions as evidence of the existence of a legal relationship that guarantees legal certainty for the parties. For Agus Yudha Hernoko, the aim of the contract is to support a conducive business climate with win-win solutions and profit efficiency).

According to Subekti, an agreement is an event where a person makes a promise to another person or where the person promises each other to carry out something. So it can be interpreted that agreement and contract are the same thing. A valid agreement has 4 requirements as stated in Article 1320 of the Civil Code (KUHPerduta). These requirements are 1) Agreement between the parties; 2) Capable; 3) A particular subject matter; 4) A halal thing. Every valid agreement will also be followed by legal action, and give rise to legal consequences for the parties who bind themselves.

Article 1338 of the Civil Code states that all agreements made legally are valid as law for the parties who make them. The form of unlawful act that occurs when a party is negligent in carrying out its obligations is called a breach of contract. Referring to negligence/negligence, broken promises, or breach of promise, sanctions/punishments will be imposed. Article 1239 of the Civil Code states that "every agreement to do something,

or not to do something, must be resolved by providing compensation for costs, losses and interest, if the debtor does not fulfill his obligations."

In this journal, we examine Decision Number 45/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst. regarding the bankruptcy petition for negligence in paying off the cooperation agreement. On October 31 2024, the Petitioner submitted a Letter of Application which was then registered at the Registrar's Office of the Jakarta District Court on November 1 2024. The Petitioner is an individual who provides construction installation services and interior facilities, while the Bankruptcy Respondent is a legal entity PT. Cipta Usaha Amerta Nusantara which operates in the field of fitness center services with the trademark SUPERSTAR FITNESS.

The Respondent asked the Petitioner to carry out the construction of an Interior Fit Out Superstar Fitness (Sports Fitness Center) at one of the fitness center locations owned by the Bankruptcy Respondent, namely Club Superstar Fitness located in Cibinong City Mall, with an area of 702 m<sup>2</sup> located on the 2nd floor. The Respondent and the Petitioner also agreed to establish a legal relationship based on the Work Agreement for Design and Build Interior Fit Out Superstar Services at Cibinong Mall Number: 017/PT.CUAN/II/2024 dated 01 February 2024 (hereinafter referred to as the "Cooperation Agreement"). In the Cooperation Agreement, it has been agreed to pay for work on a piece basis with a value of Rp. 1,600,000,000,- (One Billion Six Hundred Million Rupiah). The billing and payment procedures are regulated in Article 5 of the Cooperation Agreement, which is carried out in two stages. The first stage, amounting to 20% of the total costs, namely Rp. 320,000,000,- (Three Hundred and Twenty Million Rupiah), paid as a down payment when signing the contract. The second stage, amounting to 80% of the total costs, namely Rp. 1,280,000,000 (One Billion Two Hundred and Eighty Million Rupiah), paid no later than three days after all work is completed and handover has been carried out, namely no later than April 25 2024.

Work implementation and contracting will begin on February 2, 2024 and must be completed within 90 (ninety) calendar days, or no later than April 22, 2024. The Applicant has completed all of his achievements in accordance with the Cooperation Agreement and work handover has been carried out between the Applicant and the Respondent, as stated in the Job Handover Minutes dated April 19, 2024. Based on Article 5 of the Cooperation Agreement, the Respondent is obliged to pay the second stage of payment of Rp. 1,280,000,000,- (One Billion Two Hundred Eighty Million Rupiah) no later than three days after the handover of work, namely on April 25 2024. The Applicant has sent an Invoice for Phase II Payment Repayment to the Respondent with Number: 002/INV/IV/2024 dated April 23 2024, in accordance with Cooperation Agreement No. 017/PT.CUAN/II/2024 dated 01 February 2024. However, until the end the Respondent had not carried out its obligation to pay off the second stage of payment to the Petitioner. The author's objectives are threefold, namely, analyzing the legal position of agreements in cases where bankruptcy is filed, analyzing the application of debt to the concept of default in contract law, and the possibility of creditors getting their assets back through legal efforts that creditors can take in resolving default in repayment of contracts. Because through the dispute case that the author reviewed, whether it has actually happened according to the law, how can an Agreement be declared Bankrupt. Then can debt be applied as a concept of default in contract law, because the problem experienced by creditors is the debtor's debt which has not been repaid? The last one is a series of legal efforts that creditors can take to resolve failure to pay off the contract.

## 2. RESEARCH METHOD (12 Pt)

Normative legal research methods is a method that focuses on applicable legal norms. This method is prescriptive with a sui-generis character, namely legal science with its own unique characteristics. These characteristics include empirical-analytical, which allows exposure and analysis of the applicable legal structure, systematization of the legal phenomena being analyzed, as well as a hermeneutic approach to interpreting legal norms. Apart from that, this research also aims to provide an assessment of applicable law and develop a theoretical model for legal practice.

### **3. RESEARCH RESULTS AND DISCUSSION**

#### **3.1. Legal Position of Agreements/Contracts in Bankruptcy Cases Decision Number 45/Pdt.Sus-Pailit/2024/PN Niaga Jkt.Pst.**

An agreement is an act by one or more people that is binding as regulated in Article 1313 of the Civil Code. Therefore, the agreement creates an agreement of the rights and obligations of the parties to carry out and it is stated that the parties have a legal relationship. Bankruptcy is a situation where the debtor is unable to carry out his obligations to pay creditors the amount that should be paid by the creditors. This is a way out of the problem of debts and receivables which requires the debtor to pay the creditor, so that if the obligation is due as agreed, the creditor can submit a request for bankruptcy.. In the event that a debtor only has one creditor and the debtor does not pay the debt, the creditor will sue the debtor civilly to the competent District Court until all of the debtor's assets become a source of repayment of the debt..

Peter J.M. Declercq emphasized that bankruptcy is aimed at debtors who do not pay debts to their creditors. Indonesia adheres to the principle of creditorium parity which states that creditors have equal rights to the debtor's assets. If in a legal property relationship a person has more than one obligation that must be paid to more than one person who is entitled to that obligation, then each creditor party has the right to fulfill the obligation *pari passu*, that is, to simultaneously receive repayment or on a *pro rata* basis, calculated based on the size of their respective receivables compared to the debtor's assets.

A bankruptcy petition against a debtor can be submitted by fulfilling the conditions specified in Article 2 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (UU No. 27/2004 Bankruptcy Law and PKPU) which states that the debtor has two or more creditors and has not paid in full at least one debt that is overdue and can be collected at his own request or at the request of one or more creditors. Apart from that, Article 1 Point 1 of Law 37/2004 states that the Supervisory Judge supervises debtors who are declared bankrupt because they have stopped paying their obligations.

Apart from the fact that there must be a debt that must be paid to more than one creditor, the requirement for an application for a bankruptcy declaration is that the debt must have passed its due date first and be considered in default as regulated in 1238 of the Civil Code that the debtor is deemed to be in default if there is an order by the creditor regarding the payment due date, so that the performance of the agreement is not fulfilled. Based on the Interior Design and Build Services Work Agreement at Fit Out Superstar in Cibinong Mall Number: 017/PT.CUAN/II/2024 which agreed that the payment time was determined in two stages on April 25 2024. In the agreement, both parties have agreed that payment will be made in two stages with Stage 1 being paid 20% of Rp. 1,600,000,000,- (One Billion Six Hundred Million Rupiah, namely Rp. 320,000,000,- (Three Hundred and Twenty Million Rupiah) which was paid when the service work agreement was signed, then Stage 2 was paid 3 days after all the work was completed and 80% of the amount was handed over, namely Rp. 1,280,000,000,- (One

Billion Two hundred and eighty million Rupiah) no later than April 25 2024. However, the Debtor did not make payment and it was declared a debt as regulated in Article 1 number (6) of Law No. 27/2004 of the Bankruptcy Law and PKPU which states that debt is an obligation that is expressed or can be stated in amounts of money both in Indonesian currency and foreign currency, either directly or which will arise at a later date or is contingent, which arises due to mandatory agreements or laws. fulfilled by the debtor and if it is not fulfilled, it gives the creditor the right to obtain the fulfillment from the debtor's assets.

After the due date ended, the bankruptcy petitioners had asked repeatedly to pay the debt which was due, but the respondent did not fulfill it at all. Therefore, the applicant reminded him to pay his debt through three Warning Letters (Somasi) which were submitted first on June 3 2024, second on June 10 2024, and finally on June 17 2024, all three requests to immediately pay off the debt amounting to Rp. 1,280,000,000,- (One Billion Two Hundred and Eighty Million Rupiah). However, efforts to send a summons were not paid. Knowing this, another creditor, namely ISKANDAR ZULKARNAIN, has also issued three Warning Letters (Somasi) on 1 August 2024, the second on 10 August 2024, and finally on 21 August 2024 at the request of the Defendant to fulfill the debt repayment of Rp. 705,600,000,- (Seven Hundred Five Million Six Hundred Thousand Rupiah).

As regulated in Article 2 paragraph (1) of Law no. 37/2004 Bankruptcy Law and PKPU, explains that the conditions for a debtor are the implementation of the provisions of Article 1132 of the Civil Code, which emphasizes that basically every object is a positive side of assets that must be distributed fairly to each creditor, as the person who has the right to fulfill the agreement.. In this case, PT. CIPTA USAHA AMERTA NUSANTARA as Debtor has more than one creditor, namely: IMAM KURNIAWAN SAPUTRA (Bankruptcy Petitioner) and ISKANDAR ZULKARNAIN with different debt amounts of Rp. 1,280,000,000,- (One Billion Two Hundred and Eighty Million Rupiah) for the Interior Design and Build Services Work Agreement for Superstar Fit Out at Cibinong Mall Number: 017/PT.CUAN/II/2024 to Creditor IMAM KURNIAWAN SAPUTRA, and Rp. 705,600,000,- (Seven Hundred Five Million Six Hundred Thousand Rupiah) against another creditor ISKANDAR ZULKARNAIN is an individual, but the other creditor only submitted 1 piece of evidence which was declared by the judge to be unacceptable.

Therefore, an agreement can be declared bankrupt if it meets the requirements for bankruptcy, in the form of:

1. The Debtor has two or more Creditors;
2. Debtors do not pay off debts that are due and collectible;
3. Contains facts or circumstances that prove simply.

Because the first point cannot be directly related to the third point, where other creditors cannot submit facts that can simply prove that the Respondent did not make debt payments, it cannot be stated that the Respondent has two creditors, but only one creditor, namely Bankruptcy Petitioner IMAM KURNIAWAN SAPUTRA, which does not fulfill the main requirements of bankruptcy.

### **3.2.Application of debt as a concept of default in contract law**

Debt has been defined in Article 1 point 6 of Law of the Republic of Indonesia Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (UUKPKPU) stating that debt is an obligation that must be fulfilled by the debtor as a result of the failure of the payment process of an agreement. When they fail to fulfill their obligations, the creditor has the right to receive fulfillment from the debtor's assets.

### 3.2.1. Contract agreement between customers or membership

The relationship between a business company and its customers can be quoted from the management term, namely Customer Relationship Management. This CRM is a process carried out by companies to maximize the vision and mission they present in order to deepen the interest of potential customers. The way the Customer Relationship Management system works is to build relationships by promising or showing potential customers that the sales object being promoted can be profitable. However, in reality we often find or even feel that the object we buy does not match what was promised. We can also find this in the case of Superstar Fitness which neglected to fulfill contractual agreements with its customers. In general, fitness centers provide several options for potential customers to choose the subscription period so that the facilities can be used optimally according to their wishes, which is then defined as the term membership.

### 3.2.2. Employee salary contract agreement

Apart from negligence among customers, Superstar Fitness has been negligent in fulfilling the rights of its employees, namely by not providing salaries and bonuses according to the agreement in their work contracts. Because, as stated in Government Regulation Number 36 of 2021 concerning Wages In particular Article 53 states that "Wages must be paid by the Employer to the Worker/Labourer concerned" and then Article 55 states that "Employers are obliged to pay Wages at the time agreed between the Employer and the Worker/Labourer". Through these two articles, it is revealed that all workers have the right to be given wages in accordance with the initial work agreement, however in the case of Superstar Fitness it is shown that this is not in accordance with applicable laws and norms of justice. All the employees of this fitness center have been harmed, one *trainer* as well as a permanent employee at one of the Superstar Fitness branches, admitted that from the start there was something wrong with the management system. Then, it was further revealed that he had been promised a basic salary of IDR 3,500,000 (Three Million Five Hundred Thousand Rupiah). However, during the interview he admitted that management did not provide employment contracts like other companies. After working for 1 month, he only received a nominal salary of IDR 1,000,000 (One Million Rupiah). Meanwhile, it was revealed that other employees had never been paid a penny at all. What is even more strange is that the salary transfer system was carried out through the personal account of his superior, not from PT Usaha Cipta Amerta Nusantara. Because, Superstar Fitness can be threatened with IDR 100,000,000.00 (one hundred million rupiah) and a maximum of IDR 400,000,000.00 (four hundred million rupiah) for not fulfilling its obligations as an entrepreneur, namely paying the salaries of its employees, this is regulated in Article 185 paragraph (1) of the Employment Law.

### 3.3. Possibility of creditors getting their assets in the form of compensation/interest/fees

In Indonesian civil law, the main legal basis that regulates the binding force of agreements is found in Article 1338 paragraph (1) of the Civil Code (KUH Perdata), which states that "all agreements made legally apply as law for those who make them." This provision reflects the principle *agreements are to be kept*, namely the principle that agreements must be kept. This means that the parties who are bound by an agreement are obliged to fulfill their achievements as agreed, and if a violation occurs,

the aggrieved party has the right to demand fulfillment of the achievements or compensation for the losses suffered.

If the debtor fails to fulfill his obligations, then according to Article 1239 of the Civil Code, "every agreement to do something or not to do something must be resolved by providing compensation for costs, losses and interest if the debtor does not fulfill his obligations." This confirms that in cases of default, creditors have the right to demand compensation which includes real losses (material losses), lost profits (immaterial losses), as well as interest for late repayment. In the view of J. Satrio (2000) in his book *Engagement Law*, interest due to default can be classified into three, namely: first, moratoria interest, which arises because the debtor fails to fulfill obligations on time; second, conventional interest, which is explicitly agreed upon by the parties in the agreement; and third, compensatory interest, which is additional compensation for losses suffered by creditors. These three types of interest provide a strong legal basis for creditors to demand full settlement before the court.

In an effort to claim his rights, the creditor can file a civil lawsuit in the District Court. To strengthen the lawsuit, Article 1866 of the Civil Code regulates valid evidence, including written evidence, witnesses, confessions of the parties, oaths, and presumptions. Specifically regarding written evidence, Article 1867 explains that this evidence can be in the form of authentic writing (notarial deed) or private writing (agreement signed by the parties). If the agreement is made notarially, then the deed has higher evidentiary strength based on the provisions of Article 1870 of the Civil Code, which states that an authentic deed provides perfect proof of what is stated in it, as long as it is not proven otherwise. According to Djaja S. Meliala (2014), in his book *Law of Evidence*, an authentic deed has three powers of proof, namely: external power (*external evidential value*), formal power (*formal evidential value*), and material strength (*material evidentiary value*). These three elements provide strong legal protection to creditors in proving that the agreement has indeed been made and agreed upon, and that performance has indeed been carried out in accordance with the provisions of the contract.

Furthermore, in Supreme Court jurisprudence no. 2580 K/Pdt/2005, it is stated that "if the creditor can prove that he has carried out his obligations and the debtor fails to pay off his performance according to the agreement, then the claim for default can be fully granted, including compensation in the form of interest and fines." This decision strengthens the principle that the debtor's obligations are not only moral, but also have juridical consequences. To protect the interests of creditors, civil procedural law also recognizes collateral confiscation institutions or *conservatorship attachment*. This can be submitted based on concerns that the debtor will divert or hide assets before a legally binding decision is handed down. This mechanism is regulated in Article 227 HIR, which allows the plaintiff to request temporary confiscation of the defendant's property to ensure the implementation of the court decision at a later date. In the context of a default case, if the creditor is worried that the debtor will transfer or lose his assets before the case is decided, then filing for collateral confiscation can be a valid and strategic preventive legal step. Even though a debt and receivable agreement does not explicitly mention collateral, the law still provides a way for creditors to claim their rights, as long as it can be proven that there has been a default. In this case, the strength of the evidence, whether in the form of a written agreement or notarial deed, is the main basis for the judge in considering, accepting and deciding the case. In fact, based on Articles 1243 and 1246 of the Civil Code, compensation can include costs, real losses and lost profits as a direct result of the debtor's negligence.

Apart from that, creditors also have the right to request a payment of court costs if the dispute is brought to court. In the Republic of Indonesia Supreme Court Decision No. 44 PK/Pdt/2001, the Court stated that debtors who fail to fulfill their achievements can be charged with paying losses and all legal process costs, which shows the principle of repressive but fair compensation. In resolving default disputes, legal action can be taken through two channels, namely litigation and non-litigation. Non-litigation channels include direct negotiation, mediation, or arbitration. This alternative provides room to resolve disputes efficiently, especially in long-term business relationships. However, if an agreement is not reached or there is unilateral denial, the creditor can take the litigation route through a breach of contract lawsuit or bankruptcy petition to court. These two pathways have been explicitly recognized in the Indonesian legal system, including in Law Number 37 of 2004 concerning Bankruptcy and PKPU.

From a legal protection perspective, default dispute resolution reflects a combination of preventive and repressive approaches. A preventive approach is taken by drawing up a clear agreement, including a penalty clause, and implementing collateral confiscation before the verdict. The repressive approach occurs when the creditor has suffered a loss and files a claim for compensation or execution against the debtor's assets. As explained in the *Journal Law & Economics* Vol. 12 No. 1 (2021), preventive and repressive approaches are two sides of one legal strategy that complement each other, in order to guarantee maximum protection for creditors. Empirically, data from *UI Law and Development Journal* (2020) shows that in 42 default cases examined at the Central Jakarta District Court during 2016–2019, 83% of the claims were granted, with 78% including full compensation and 65% including moratoria interest. This shows that courts tend to provide real protection to creditors who can legally prove default. Meanwhile, the 2023 Supreme Court Statistical Report noted that default cases accounted for more than 50% of the total civil cases, with the majority of the results being in favor of the creditor.

Thus, all normative, doctrinal, jurisprudential and empirical analysis clearly shows that creditors have a real and strong legal possibility to recover their assets in the form of compensation, interest and costs due to default. This mechanism not only strengthens the legal position of creditors, but also guarantees legal certainty and justice in engagement relationships in Indonesia.

#### 4. CONCLUSION

Based on the analysis, the Superstar Fitness dispute shows that a breach of agreement cannot necessarily be used as a basis for a bankruptcy petition if it does not meet the formal requirements as regulated in the Bankruptcy Law, namely having at least two creditors with proof of a valid legal relationship. This case shows a breach of contract by Superstar Fitness in the form of negligence in paying obligations to work partners, employees and customers. Therefore, creditors still have the right to demand compensation through civil channels. The main problem lies in the company's weak long-term financial planning and management, resulting in the accumulation of debt and breach of contract. To prevent similar things, every PT needs to manage its legal obligations and cash flow carefully, especially if it relies on a membership-based business scheme.

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