

The Immediate Bankruptcy Decision: The Role of Curators and Supervisory Judges in Ensuring Justice and Legal Certainty

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Article History:

Submitted:

25-12-2024

Received:

04-01-2025

Accepted:

27-01-2025

Keywords:

bankruptcy;

court;

fairness; legal

certainty

Abstract

This research examines the urgency of implementing an immediate bankruptcy decision in Indonesian bankruptcy law. The main issues raised were how bankruptcy judgments can be implemented even though they do not have permanent legal force, as well as how curators and supervisory judges ensure justice for creditors and debtors. The purpose of this study is to analyze the legal basis of instant judgments in bankruptcy, distinguish their application from ordinary civil procedure law, and examine how the principles of justice and legal certainty can be fulfilled in this process. The research method used is a normative juridical approach, with an analysis of primary and secondary legal materials, including Bankruptcy Law No. 37/2004, court decisions, and legal literature. The results of the study show that the bankruptcy verdict is immediate and provides a guarantee of rights protection for creditors by allowing the curator to manage the debtor's assets directly. This is supported by the role of the supervisory judge, who ensures that the curator's duties are carried out fairly. Although a bankruptcy judgment can be overturned at the cassation or review level, the actions taken by the curator remain valid and binding. The recommendations of this study are the importance of strict monitoring in the settlement process to ensure fairness for all parties, as well as the need to strengthen regulations to optimize the supervisory function by supervisory judges to maintain a balance between the rights of creditors and debtors.

1. Introduction

A bankruptcy declaration decision changes a person's legal status to be incapable of performing legal acts, mastering, and managing their assets since the bankruptcy declaration decision was pronounced. The Curator is authorized to carry out the duties of managing and/or settling bankruptcy assets from the date the bankruptcy declaration decision is pronounced, even if the decision is filed for cassation or review. Suppose the bankruptcy declaration decision is cancelled as a result of cassation or review. In that case, all actions that have been done by the Curator before or on the date the Curator receives the notification of the cancellation decision remain valid and binding on the Debtor. Bankruptcy Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (hereafter Law No. 37/2004) stipulates that if a bankruptcy declaration decision is cancelled due to cassation or review, all actions that have been taken by the Curator before or at the time the Curator receives the notice of cancellation remain valid and binding on the Debtor.¹ This condition is different from ordinary civil cases, where the District Court's decision has been implemented immediately but is later cancelled at the level of appeal, cassation, or review, and then the

¹ Zeffrianto Sihotang, "Duties And Authority Of PKPU Management Based On Law No. 37 Of 2004 Concerning Bankruptcy And Suspension Debt Payment Obligations," *Journal of Law Science* 3, no. 1 (January 30, 2021): 15–24, <https://doi.org/10.35335/jls.v3i1.1650>.

implementation of the immediate decision by the District Court is also cancelled.² If the goods have been transferred to a third party in an ordinary civil case, the original owner must sue the goods again from the party who controls them. However, suppose the goods are still in the hands of the original Plaintiff. In that case, it is sufficient to carry out an execution where Defendant initially requested Plaintiff to return his belongings.³

This difference is evident because, in a bankruptcy declaration decision that is always immediate, all determination of the Court's execution of any part of the debtor's assets that have commenced before the bankruptcy must be stopped immediately. Since then, no other judgment can be enforced, including or also by holding the debtor hostage, as stipulated in Article 31 paragraph 1 of Law No. 37/2004. In ordinary civil cases, the only decision that can be implemented immediately is a decision that has fulfilled one of the conditions in Article 180 paragraph (1) HIR/Article 191 paragraph (1) Rbg, which determines that the District Court can order that the judgment can be executed first even if there is resistance or appeal.⁴

Article 299 of Law No. 37/2004 also states, unless otherwise specified in this law, the applicable procedural law is the Civil Procedure Law. Thus, if the bankruptcy law does not regulate certain matters related to the submission of an application for a declaration of bankruptcy and the examination of the case in the Court, then what must be referred to is the HIR and Rv.⁵ One of the aspects that distinguishes the procedural process in bankruptcy compared to the examination of ordinary civil cases is the time frame for resolving the case. An application for a declaration of bankruptcy at the Commercial Court must be decided within a maximum of 60 days after the registration of the application. Similarly, at the cassation level, the Supreme Court's decision must be handed down within a maximum of 60 days after the date the Supreme Court receives the cassation application. At the same time, in ordinary civil case examinations, there is no time limit for the resolution of cases.

Applications for declaration of bankruptcy, Suspension of Debt Payment Obligations (PKPU), and intellectual property rights (IPR) are examined and decided by the Commercial Court as a Special Court within the General Court, which is established and tasked with receiving, examining, and deciding applications for declaration of bankruptcy, postponement of debt payment obligations, and other business cases by laws and regulations, as stipulated in Article 300 paragraph (1) of Law No. 37/2004. Because the Commercial Court is within the General Court, the Chairman of the Commercial Court is not known; The Chairman of the District Court concerned also oversees the Commercial Court. The existence of the Commercial

² Zainuddin Mappong, "Existence of Immediate Decisions (Uitvoerbaar Bij Voorraad) and Its Execution in the Civil Justice System in Indonesia," *Journal of Law and Sustainable Development* 11, no. 7 (September 25, 2023): e997, <https://doi.org/10.55908/sdgs.v11i7.997>.

³ Bicar Franki Leonardo Manurung, Elza Syarief, and Rina Shahriyani Shahrullah, "legal consequences of bankruptcy and postponement of debt payment obligations: are they similar?," *Journal of Law and Policy Transformation* 7, no. 1 (June 29, 2022): 85, <https://doi.org/10.37253/jlpt.v7i1.6746>.

⁴ Bagus Rahman and Ahmad Redi, "Review of Theory of Legal Objectives on Article 31 Section (1) and (2) of Law Number 37 Of 2004 Concerning Bankruptcy and Suspension of Debt Payment Obligations," *Edunity: Kajian Ilmu Sosial Dan Pendidikan* 2, no. 1 (January 15, 2023): 105-14, <https://doi.org/10.57096/edunity.v1i05.42>.

⁵ Rado Fridsel Leonardus, Alexander Yovie Pratama Yudha, and Tata Wijayanta, "Practice of Applying Affidavits in Bankruptcy Law and Postponement of Debt Payment Obligations," *Unnes Law Journal* 9, no. 2 (October 31, 2023): 467-88, <https://doi.org/10.15294/ulj.v9i2.75588>.

Court is possible based on the provisions in Law No. 2 /1986, as amended by Law No. 8/2004, which allows specialization in general justice as stated in Article 8.⁶

The definition of debt in this Law is expected to cause differences of opinion regarding its definition no longer, as happened during the validity period of the Government Regulation instead of Law (PERPU) Bankruptcy Law No. 1/1998 jo. Law No. 4/1998, where the Supreme Court sometimes interprets debt narrowly but on other occasions interprets it broadly. Article 8 paragraph (7) of Law No. 37/2004 stipulates that the decision on the application for a declaration of bankruptcy, as referred to in paragraph (6), must be pronounced in an open session to the public and can be implemented first, even if legal remedies are filed against the decision. Due to its immediate nature, the Curator is authorized to carry out the task of managing and settling bankruptcy assets from the date the bankruptcy decision is pronounced, even if there is an attempt at cassation or review. If the bankruptcy judgment is annulled as a result of cassation or review, all actions of the Curator before the notice of cancellation remain valid and binding on the Debtor.⁷

What is meant by "settlement" is the liquidation of assets to pay off debts. At the same time, "all acts that the Curator has done" include every act of managing and settling bankruptcy assets, and "remaining legal and binding on the Debtor" means that the actions of the Curator cannot be sued in any court. The provisions as in Article 8 paragraph (7) of Law No. 37/2004 are also listed in Article 6 paragraph (5) of PERPU No. 1/1998 jo. Law No. 4/1998 states that a bankruptcy decision can be implemented first, even if there is a legal remedy.⁸ Article 8 paragraph (4) of Law No. 37/2004 explains that the application for a declaration of bankruptcy must be granted if there is simple evidence regarding the existence of two or more creditors and debts that have matured. The difference in the amount of debt postulated by the Applicant and the Bankruptcy Respondent does not prevent the issuance of a bankruptcy declaration decision. The provisions in Article 1 paragraph (1) of the Law on Bankruptcy contained in Stb. of 1905 No. 217 jo. Stb. of 1906 No. 348 is no longer maintainable because proving that the Debtor has stopped paying its debt requires a long time. The Law then stipulates that a Debtor who has two or more Creditors and does not pay at least one debt that has matured can be declared bankrupt.⁹

The main difference between ordinary civil procedure law and bankruptcy is that in civil procedure law, a judgment can be enforced after it has permanent legal force unless the judgment is immediately established. However, in bankruptcy, the judgment can be carried

⁶ Ermanto Fahamsyah et al., "The Problem of Filing for Bankruptcy in Indonesian Law: Should the Insolvency Test Mechanism Be Applied?," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 30, 2024, 199-218, <https://doi.org/10.24090/volksgeist.v7i1.10079>.

⁷ Rian Saputra and Resti Dian Luthviati, "Institutionalization of the Approval Principle of Majority Creditors for Bankruptcy Decisions in Bankruptcy Act Reform Efforts," *Journal of Morality and Legal Culture* 1, no. 2 (December 30, 2020): 104, <https://doi.org/10.20961/jmail.v1i2.46880>.

⁸ M.O. Saut Hamonangan Turnip, "Juridical Review of Actio Pauliana Against Bankrupt Boedal Becoming The Object of Liability," *JUSTISI* 10, no. 1 (December 27, 2023): 159-73, <https://doi.org/10.33506/js.v10i1.2438>.

⁹ Herlina Basri, Evita Israhadi, and Riswadi Riswadi, "Legal Protection of Creditors in Implementing Bankruptcy Redemption," in *Proceedings of the 3rd International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2023, 6 May 2023, Salatiga, Central Java, Indonesia* (EAI, 2023), <https://doi.org/10.4108/eai.6-5-2023.2333453>.

out even if there are further legal remedies. This often causes problems when a bankruptcy judgment is overturned at the cassation or review level. Because of the importance of the Curator's duties, the task of managing and settling bankruptcy assets is supervised by the Supervisory Judge. The Court may appoint or replace the Curator if necessary. The decision on the application for a declaration of bankruptcy must contain complete legal considerations, be pronounced in a public hearing, and be immediate (*Uitvoerbaar Bij Vooraad*). The curator is authorized to manage and settle bankruptcy assets since the bankruptcy decision is pronounced, even if there is an appeal or review. With these foundations, this study aims to provide views on the consideration of justice and legal certainty in immediate bankruptcy decisions.

The novelty of this study lies in an in-depth analysis of the role of curators and supervisory judges in the urgent bankruptcy decision-making process, which is often faced with complex challenges between justice and legal certainty. The study not only explores the operational mechanisms implemented by the two entities but also identifies the factors that influence their decisions in stressful situations. With an interdisciplinary approach that combines legal, economic, and ethical perspectives, this research provides new insights into how best practices can be implemented to improve transparency and accountability in the insolvency process, as well as offering policy recommendations that can strengthen the legal system in the face of rapid economic dynamics. The discussion is divided into four parts: first, instant judgments in bankruptcy law and ordinary civil procedure law; second, the concept of *Actio Pauliana* in bankruptcy; third, the annulment of bankruptcy decisions at the cassation level; and finally, the theory of justice and legal certainty in bankruptcy law.

2. Methods

The type of research used in this study is normative juridical research, which focuses on the analysis of secondary data in the form of primary and secondary legal materials related to the problems in the research.¹⁰ This research uses a legal principles approach and refers to legal norms in Indonesian laws and regulations. Normative legal research is also known as doctrinal legal research, which examines law as a written norm in law or as a rule that regulates appropriate behaviour. Secondary data in this study mainly comes from bankruptcy decisions that have been handed down by the Commercial Court and the Supreme Court to obtain legal and empirical answers to bankruptcy problems related to immediate decisions in several legal regimes. This research is descriptive-analytical, where the collected data will be processed, analyzed, and compiled thoroughly and systematically to explain the relationship with the problems in this study. The approach used in this study is qualitative, which makes it possible to delve deeply into relevant legal concepts and interpret legal norms in the context of the problem being studied. This research also includes data sources consisting of primary legal materials such as Law No. 37/2004, secondary legal materials such as court decisions, as well as tertiary legal materials in the form of encyclopedias, legal dictionaries, and other supporting literature.¹¹ Data collection is carried out through literature studies that involve the study of relevant laws and regulations, legal literature, and court decisions. Data analysis is carried out in a qualitative normative manner, with steps such as identifying legal concepts contained in

¹⁰ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, 1st ed. (Bandung: Mandar Maju, 2016).

¹¹ Peter Mahmud Marzuki, "Penelitian Hukum," 2013.

legal materials, grouping similar or related regulations, and outlining the relationships between legal categories. Through this qualitative descriptive analysis, it is hoped that conclusions that answer research problems and provide relevant recommendations can be found.

3. Results and Discussion

3.1. Immediate Decision in the Bankruptcy Law and Ordinary Civil Procedure Law

a. Immediate Decision in the Bankruptcy Law

Law No. 37/2004 aims to resolve bankruptcy cases more quickly, fairly, and openly. In addition, this law also provides legal protection to creditors and debtors.¹² The creditor is expected to obtain proportional expansion and prevent the debtor from committing acts that can harm the interests of the creditors while the debtor can continue its business. To fulfil these three elements, a compromise is needed, and it must receive attention in a proportionate and balanced manner.¹³

Therefore, to achieve this goal, the Law No. 37/2004 implement several principles for resolving bankruptcy cases in court. The principles include 5 five things, namely: a) the principle of justice; b) the principle of bankruptcy is not as ultimatum remedial; c) the general public can know the principle; d) the principle of quick case resolution, and e) the principle of simple proof.¹⁴ Based on the provisions in Law No. 37/2004, the three elements of law enforcement have been accommodated in the law. The concept of legal certainty is summarized in the principle of quick case settlement and the principle of simple proof. The element of justice in law enforcement is reflected in the principle of justice. In contrast, the element of benefit can be seen as the principle of bankruptcy as the ultimate remedial of debt settlement, and the general public can know the principle.¹⁵

Legal certainty can be interpreted as a person's ability to obtain something that is expected under certain circumstances. Certainty is interpreted as the clarity of norms so that it can be used as a guideline for people who are subject to this regulation. The definition of certainty can be interpreted as clarity and firmness in the enforcement of the law in society. This is to avoid causing many misinterpretations. Legal certainty is the existence of a precise behavioural scenario that is general and binding on all citizens of the community, including the legal consequences. Legal certainty can also mean things that can be determined by law in concrete matters. Legal certainty is a guarantee that the law is carried out, that those who are entitled according to the law can obtain their rights, and that the decision can be implemented.

In the context of law enforcement, the element of legal certainty has a very important role, especially in bankruptcy law. This is reflected in Article 2 paragraph 1 of Law No.

¹² Zeto Bachri et al., "Legal Protection for Debtors Through Bankruptcy Concept," *International Journal of Multicultural and Multireligious Understanding* 8, no. 8 (August 30, 2021): 458, <https://doi.org/10.18415/ijmmu.v8i8.2953>.

¹³ Elizabeth Warren et al., *The Law of Debtors and Creditors: Text, Cases, and Problems* (Aspen Publishing, 2020).

¹⁴ Fatihani Baso et al., "analysis of the balance of interest protection of debtors and creditors in the bankruptcy law," *Jurisprudence : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum* 8, no. 2 (December 23, 2021): 1, <https://doi.org/10.24252/jurisprudentie.v8i2.21320>.

¹⁵ Unai Olabarrieta, Andrés Araujo, and Leire San-Jose, "Ethics of Bankruptcy Creditor," 2021, 441–59, https://doi.org/10.1007/978-3-030-29371-0_16.

37/2004, which stipulates three main conditions for declaring a debtor as bankrupt, namely the existence of debts, one of the debts has matured and can be collected, and the debtor has two or more creditors. This provision provides clarity and certainty for debtors and creditors regarding the conditions that must be met for bankruptcy applications to be accepted, thereby creating predictability in the legal process. However, the analysis of these provisions can be expanded by linking the principles of bankruptcy law – such as legal certainty, justice, and utility – with theoretical approaches such as economic analysis of law or utilitarianism theory.

The principle of legal certainty ensures that individuals can predict the legal consequences of their actions, while the principle of justice guarantees fair treatment for all parties involved in the bankruptcy process. From the perspective of utilitarianism, the effectiveness of bankruptcy law is measured by its ability to maximize mutual welfare through prompt and efficient case resolution, providing the debtor with the opportunity to restructure its debts while allowing creditors to recover their assets. An economic analysis approach to the law is also relevant to evaluate the efficiency of these provisions by looking at their impact on the economic behaviour of debtors and creditors as well as overall lending practices. Thus, the incorporation of legal principles with a theoretical approach can strengthen the understanding of how bankruptcy law functions to create a balance between legal certainty, justice, and utility in the economic system. Previous research has shown that although Law No. 37/2004 provides a clear framework for bankruptcy, there are still challenges in its implementation in the field. For example, many parties consider that this law is more beneficial to creditors than debtors, so there is a need for evaluation and renewal to ensure that both parties receive fair protection. In this regard, an interdisciplinary approach that combines legal aspects with economic analysis can help formulate policies that are more effective and responsive to the needs of today's business community.¹⁶

The formulation of Article 6 paragraph (4) and Paragraph (5) of PERPU No. 1/1998 is slightly different from the formulation of Article 8 paragraph (5) and Paragraph (7) of Law No. 37/2004 where the Court Decision on the application for bankruptcy declaration must be pronounced no later than 60 (sixty) days after the date the application for bankruptcy declaration is registered. The Decision on the application for bankruptcy declaration contains in full the legal considerations underlying the decision. It must be pronounced in a hearing that is open to the public and can be implemented first, even if a legal remedy is filed against the decision.¹⁷ This difference can be mainly seen from the period for pronouncing the decision on the application for a bankruptcy declaration, which in PERPU No. 1/1998 is determined no later than 30 (thirty) days from the date the application for a declaration of bankruptcy is registered, while in Law No. 37/2004, it is determined no later than 60 (sixty) days after the date of the application for a declaration of bankruptcy is registered.

Similarly, the decision on the cassation application, according to Article 10 paragraph (3) of PERPU No. 1/1998, must be determined within a period of no later than 30 (thirty) days from the date the cassation application is registered, while according to Article 13 paragraph (3) of Law No. 37/2004 is determined no later than 60 (sixty) days after the date the Supreme

¹⁶Article 6 paragraph (4), paragraph (5), Government Regulation instead of legislation No. 1 of 1998

¹⁷ Article 8 paragraph (5) and paragraph (7) of Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

Court receives the cassation application. In the bankruptcy declaration decision, a Curator and a Supervisory Judge appointed from the Court Judges must be appointed from the Commercial Judges. The appointed Curator must be independent, have no conflict of interest with the Debtor or Curator, and not be handling bankruptcy cases in more than 3 (three) cases (Article 15 paragraph (1) and paragraph (3) of Law No. 37/2004).

The curator is authorized to carry out the task of managing and/or settling the bankruptcy assets from the date the bankruptcy decision is pronounced, even though the decision is filed for cassation or review.¹⁸ Suppose the bankruptcy declaration decision is cancelled as a result of cassation or review. In that case, all acts that have been done by the Curator before or on the date the Curator receives the notice of the cancellation decision referred to in Article 17 remain valid and binding on the Debtor, and all actions of the Curator cannot be sued in any Court.¹⁹ Thus, even if the bankruptcy declaration decision is later annulled in the cassation or review level and the Curator has sold out the Debtor's belongings, the Debtor cannot sue the Curator in any court, as if it were the bad luck of the Debtor.²⁰ The Curator, in carrying out the duties of managing and/or settling bankruptcy assets, does not require prior permission from the Chief Justice of the Commercial Court or the Chief Justice of the Supreme Court. Still, the Supervisory Judge supervises the management and settlement of bankruptcy assets. The Curator must submit a report to the Supervisory Judge regarding the state of the bankruptcy assets and the implementation of his duties every 3 (three) months. The report is open to the public and can be viewed by everyone for free. The Supervisory Judge may extend the term every 3 (three) months.²¹

b. Judgments and Merit in Ordinary Civil Procedure Law

The implementation of immediate judgments in the Ordinary Civil Procedure Law differs significantly from that in Bankruptcy Law. In the context of Ordinary Civil Procedure, when a District Court issues an immediate decision, it may later be annulled at the appeal or cassation level. If this occurs, the execution of the immediate decision must be restored to its original state. Specifically, if the object of the dispute remains with the Plaintiff, recovery is straightforward. However, if the object has been transferred to a third party based on legal rights, recovery necessitates a lawsuit involving both the original Plaintiff and the third party or any party controlling the disputed object in the District Court.²² Conversely, under Bankruptcy Law, all actions taken by the Curator remain valid and binding on the Debtor,

¹⁸ Ariffani Ariffani, Rilawadi Sahputra, and Syaiful Azmi, "Analysis Of Consideration Of The Judge's Decision The Process Of Management And Settlement Of The Debtor's Property After The Bankruptcy Of The Debtor In Bankruptcy (Case Study No. 1/Pdt.Sus-Renvoi Prosedur/2022/PN.Niaga.Mdn)," *International Asia Of Law and Money Laundering (IAML) 2*, no. 4 (December 11, 2023): 142-52, <https://doi.org/10.59712/iaml.v2i4.69>.

¹⁹ Article 16 paragraph (1), paragraph (2), paragraph (3) of Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

²⁰ Mima Rosmiati et al., "Employee's Position as Privileged Creditors When Debt of Bankruptcy Is Larger Than Bankruptcy Assets," 2021, <https://doi.org/10.2991/assehr.k.210617.025>.

²¹ Article 74 paragraph (1), paragraph (2), paragraph (3) of Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

²² Afilia Dinda Dhiya Ulhaq, "The Position of Creditors of Individual Collateral Holders In Insolvency Law," *Yurisdiksi: Jurnal Wacana Hukum Dan Sains* 19, no. 1 (June 27, 2023): 41-57, <https://doi.org/10.55173/yurisdiksi.v19i1.173>.

meaning that these actions cannot be contested in court. This creates a situation where the Debtor bears significant consequences for actions taken during bankruptcy proceedings. The differences between immediate judgments in Ordinary Civil Procedure and those regulated by Law No. 37/2004 are further elaborated in Articles 8(7), 16(1) and (2), and 31(1) of the Bankruptcy Law, while immediate decisions in civil cases are governed by Article 180(1) of HIR and Article 191(1) of Rbg.²³

A key distinction lies in that all bankruptcy declaration decisions can be executed immediately under Law No. 37/2004, whereas only certain qualified decisions can be executed immediately under Ordinary Civil Procedure Law. The conditions for an immediate verdict in civil cases include: (1) submission of authentic evidence; (2) decisions based on prior rulings with permanent legal force; (3) provisional lawsuits granted; and (4) if the object of the lawsuit is property controlled by the Defendant.²⁴ In ordinary civil cases, a small subset of decisions can be implemented immediately, but such implementations require permission from either the Chief Justice of the local High Court or the Supreme Court if cassation is sought. If a District Court's decision is annulled by a higher court, all outcomes from that immediate execution must revert to their prior state. If the Plaintiff has legally transferred the disputed object to a third party who subsequently sold it, restoring it to its original state requires a new lawsuit.²⁵

In contrast, all decisions regarding bankruptcy declarations can be executed immediately, as stipulated by Law No. 37/2004. These decisions must include comprehensive legal reasoning and be pronounced in an open session to the public. They can be executed even if legal remedies are sought against them. The court's decision must also reference specific legal articles and include differing legal opinions from judges involved in deliberation.²⁶ Furthermore, once a bankruptcy declaration is made, the Curator is authorized to manage and settle bankruptcy assets from that moment onward, regardless of whether an appeal is filed. Should a bankruptcy declaration be overturned through cassation or review, all actions taken by the Curator before receiving notice of this cancellation remain valid and binding on the Debtor.^{27,28}

3.2. *Aktio Pauliana* in Bankruptcy

The term "*action pauliana*" originates from Roman law and refers to legal remedies that allow creditors to seek the cancellation of actions taken by a debtor that undermine the rights of creditors, particularly in the context of bankruptcy. Specifically, Article 1131 of the Civil Code highlights that when a debtor anticipates bankruptcy, they may engage in actions to

²³ Joe T. Darden, "Detroit Bankruptcy: The Characteristics of the Decision Makers and the Differential Benefits Afterwards," in *Detroit after Bankruptcy* (Bristol University Press, 2023), 18–34, <https://doi.org/10.51952/9781529235685.ch002>.

²⁴ M. Adnan Lira, "the position and protection of concurrent creditors in indonesia's bankruptcy process: a review based on the principle of creditorium parity," *The Juris* 8, no. 1 (June 30, 2024): 281–90, <https://doi.org/10.56301/juris.v8i1.1280>.

²⁵ Firman Wahyudi, "the quo vadis of bankruptcy settlement and pkpu laws on sharia banking," *Jurnal Hukum Dan Peradilan* 8, no. 1 (March 30, 2019): 1, <https://doi.org/10.25216/jhp.8.1.2019.1-20>.

²⁶ Supreme Court Decision No. 323 K/Sip/1968.

²⁷ Article 8 paragraph (7) of Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

²⁸ Article 8 paragraph (5), paragraph (6), and Article 298 paragraph (3) of Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

transfer assets that could harm their creditors. *Actio pauliana* serves as a protective mechanism for creditors against such detrimental actions by debtors, as outlined in Article 1341 of the Civil Code.²⁹ In Indonesia, *actio pauliana* is further regulated by Article 41 of Law No. 37/2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. This law empowers the court to annul any legal acts performed by a debtor before bankruptcy is declared if those acts are found to be harmful to creditors. For the cancellation to be valid, it must be demonstrated that both the debtor and the third party involved were aware or should have been aware that their actions would result in losses for the creditor.

There are specific requirements outlined in Article 41, including (a) the debtor must have committed a legal act; (b) the act must not be obligatory; (c) it must harm the creditor; (d) at the time of the act, the debtor knew or should have known it was detrimental; and (e) the third party involved also knew or should have known about the potential harm to creditors. Additionally, Article 1340 of the Civil Code establishes that agreements only bind the parties involved and cannot adversely affect third parties. However, Article 1341 provides an exception aimed at protecting creditors, allowing them to challenge transactions that may harm their interests. The distinction lies in that *actio pauliana* under bankruptcy law can only be initiated by a curator for the benefit of all creditors, while under Article 1341, individual creditors can file for their interests.

The authority of the Commercial Court extends beyond merely adjudicating bankruptcy declarations; it encompasses comprehensive jurisdiction over all bankruptcy-related matters, including *actio pauliana* and debt verification. This jurisdictional scope has been debated within legal circles. Critics argue about whether such authority leads to legal uncertainty and whether there is a need for harmonization across different legal frameworks to clarify jurisdictional boundaries.³⁰ For instance, Supreme Court Decision No. 012/PK/N/2000 indicated that applications for cancellation of a debtor's legal acts must be submitted to District Courts based on civil procedure laws. Conversely, Jakarta Commercial Court Decision No. 04/Actio Pauliana/2000 asserted that such applications could indeed be examined by Commercial Courts. This inconsistency highlights ongoing debates regarding jurisdiction and calls into question whether clearer guidelines are needed to prevent confusion.³¹ Recent case studies further illustrate these issues. For example, Supreme Court Decision No. 388 K/Pdt.Sus-Pailit/2014 analyzed a situation involving asset transfers prior to bankruptcy declarations and emphasized the need for scrutiny regarding debtor actions within one year of bankruptcy judgments. These decisions not only reflect current practices but also influence the development of *actio pauliana* law in Indonesia by establishing precedents for future cases³².

²⁹ Hendra Onggowijaya, "Regulation Model for Filing an Actio Pauliana Lawsuit by Creditors to Revoke the Debtor's Legal Actions Prior to Declaration of Bankruptcy by the Commercial Court," *International Journal of Research in Business and Social Science* (2147- 4478) 11, no. 7 (November 6, 2022): 350-56, <https://doi.org/10.20525/ijrbs.v11i7.2165>.

³⁰ Article 43, Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

³¹ Article 44, Law no.37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

³² Sanford U. Mba, "Financing the Restructuring Process: Incentivizing Through Law," in *New Financing for Distressed Businesses in the Context of Business Restructuring Law* (Cham: Springer International Publishing, 2019), 133-76, https://doi.org/10.1007/978-3-030-19749-0_4.

Based on the above, the authority of the Commercial Court is not only limited to examining and deciding the application for bankruptcy declaration and suspension of debt payment obligations but can be interpreted as comprehensive authority over all matters related to bankruptcy and postponement of debt payment obligations itself, such as action Pauliana, debt verification, and so on are the authority of the Commercial Court. Without the need to carry out the procedure of re-appointment to the General Court.³³ As an example, it can be seen from the Supreme Court's decision No. 012/PK/N/2000 dated August 14, 2000, which states as follows: "That he, therefore, the application for cancellation of the debtor's legal act that has been declared bankrupt as referred to in Article 41 of PERPU No. 1 of 1998 which has been stipulated as Law No. 4 of 1998 cannot be submitted to the Commercial Court, instead, it must be submitted to the District Court by the provisions of the civil procedure law applicable. But on the contrary, the decision of the Central Jakarta Commercial Court No. 04/*Actio Puliana*/2000/PN. Niaga.Jkt.Pst then decided that the Commercial Court has the authority to examine *Actio Puliana's* application for bankruptcy. It was finally agreed that the Commercial Court should examine *Actio Puliana's* application related to bankruptcy.

Actio Puliana, or the institution for the protection of the rights of the Creditor, is the duty of the Curator to prove that at the time the legal act is committed, the Debtor and the party with whom the legal act was carried out know and should know that the legal act will result in losses for the Creditor.³⁴ Suppose the legal act that is detrimental to the Creditor is committed within 1 (one) year before the bankruptcy declaration verdict is pronounced. In contrast, the act is not mandatory for the Debtor unless it can be proven otherwise. In that case, the Debtor and the party with whom the act was committed are considered to know that the act will harm the Creditor.³⁵

3.3. Bankruptcy Statement Decision Cancelled at Cassation Level

The principle of "*uitvoerbaar bij voorraad*" or immediate enforcement of decisions without permanent legal force is rooted in the necessity to protect creditors from potential harm caused by debtors' delaying tactics. This rule is justified by the philosophy of balancing justice and expediency, aiming to safeguard the rights of creditors while ensuring that debtors are not unjustly disadvantaged. By permitting curators to act immediately, this principle minimizes asset dissipation risks, which often occur when legal processes are prolonged. Bankruptcy law adopts this principle to maintain economic order and prevent deliberate manipulation by debtors. For instance, assets might be transferred or concealed during protracted litigation. Thus, immediate enforcement ensures creditors can exercise their rights effectively while maintaining legal certainty through supervisory mechanisms like the roles of curators and supervisory judges. Article 2(1) provides that a debtor who has at least two creditors and fails to fulfil a due and collectable debt can be declared bankrupt. Judges commonly interpret the phrase "due and collectable debt" as requiring unequivocal proof of a debtor's failure to pay. However, inconsistencies in its application have emerged in practice. Some courts apply a

³³ Ruth Irene Saurmauli, "Legal Certainty of Actio Pauliana Decision in Bankruptcy Cases," *Locus Journal of Academic Literature Review*, November 2, 2022, 386–93, <https://doi.org/10.56128/ljoalr.v1i7.92>.

³⁴Article 41 paragraph (2), Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

³⁵Article 42, Law no.37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

strict interpretation, focusing solely on procedural compliance, while others adopt a substantive approach, examining whether the debtor's financial state genuinely warrants bankruptcy.

The application for declaration of bankruptcy is submitted to the Chief Justice, and subsequently, the Registrar registers on the date the application is filed, and the Applicant is given a written receipt signed by the authorized official with the same date as the date of registration. Furthermore, the Registrar applies to a declaration of bankruptcy to the Chief Court no later than 2 (two) days after the date the application is registered later than 3 (three) days later, the Court determines the date of the hearing. Finally, no later than 20 (twenty) days after the date the application is registered, the examination hearing begins. If requested by the Debtor, the holding of the trial can be postponed no later than 25 (twenty-five) days.³⁶

The Court is obliged to summon the Debtor if the Creditor applies to a declaration of bankruptcy, the Prosecutor's Office, Bank Indonesia, the Capital Market Supervisory Agency, or the Minister of Finance, and may summon the Creditor if the Debtor applies to a declaration of bankruptcy. There is doubt that the requirements for declaring bankruptcy, as referred to in Article 2 paragraph (1), have been met.³⁷ Article 1 paragraph (1) determines, "A debtor who has two or more creditors and does not pay in full at least one debt that has fallen due and can be collected, is declared bankrupt by a court decision, either on his application or on the application of one or more of his creditors" The summons of the debtor and creditor mentioned above is carried out by the bailiff with a registered express letter no later than 7 (seven) days before the first examination hearing is held.³⁸ The application for a declaration of bankruptcy must be granted if some facts or circumstances prove that the statement to be declared bankrupt, as referred to in Article 2 paragraph (1), has been fulfilled. What "facts or circumstances that are simply proven" means that there are two or more creditors and that the debt has expired and has not been paid. Meanwhile, the difference in the amount of debt postulated by the Bankruptcy Applicant and the Bankruptcy Respondent does not prevent the issuance of a bankruptcy declaration decision.

The Court's decision on the application for a declaration of bankruptcy must be pronounced no later than 60 (sixty) days after the date the application for a declaration of bankruptcy is registered, which decision must also contain: a) Certain articles of the relevant laws and regulations and/or unwritten legal sources that are used as the basis for adjudication, and b) Legal considerations and opinions that differ from those of the member judges or the chairman of the assembly. The decision on the application for bankruptcy declaration mentioned above contains in full the legal considerations underlying the decision, which must be pronounced in a public hearing and can be implemented first, even if a legal remedy is filed against the decision.³⁹ In the bankruptcy declaration decision, a Curator and a Supervisory Judge appointed from the Court Judge must be appointed.

³⁶ Article 6 paragraphs (1), (2), (4), (5), (6) and (7) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

³⁷ Article 8 paragraph (1) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

³⁸ Article 8 paragraph (2) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

³⁹ Article 8 paragraphs (5), (6), and (7) of Law No. 37 of 2004 concerning Bankruptcy and PKPU

The curator is authorized to carry out the task of managing and/or settling the bankruptcy assets from the date the bankruptcy decision is pronounced, even though the decision is filed for cassation or review. Suppose the bankruptcy declaration decision is canceled due to cassation or review. In that case, all acts done by the Curator before or on the date the Curator receives the notification of the cancellation decision, as referred to in Article 17, remain valid and binding on the Debtor.⁴⁰ The settlement referred to above is liquidating assets to pay or pay off debts. As for what is meant by "all acts that the Curator has done," it includes every act of managing and settling bankruptcy assets. What is meant by "remaining valid and binding on the Debtor" is that the actions of the Curator cannot be sued in any Court. Thus, all acts that the Curator has done after or after the date the Curator receives the notice of the cancellation decision, as referred to in Article 17, are invalid and not binding on the Debtor.⁴¹

Law No. 37/2004 deliberately gives immediate effect or *uitvoebaar bij voorraad* to the decision of the Commercial Court, even though the decision does not have permanent legal force. Still, the Curator can immediately implement the decision even if legal remedies are carried out against the decision in the form of Cassation or Review, as specified in Article 16 paragraph (1) of Law No. 37/2004. What if it turns out that at the cassation or review level, the Supreme Court grants the legal remedy, but in the meantime, the Curator has carried out the task of managing and/or settling the bankruptcy property? Is the buyer obliged to return the goods he purchased to the debtor? This problem has been answered by the provisions of Article 16 paragraph (2), which determines, "If the bankruptcy declaration decision is cancelled as a result of cassation or review, all actions that have been done by the Curator before or on the date the Curator receives the notification of the cancellation decision as referred to in Article 17 remain valid and binding on the Debtor.

As is known, the legal remedy that can be submitted to the decision on the application for a declaration of bankruptcy is cassation to the Supreme Court by 8 (eight) days after the date the decision applied for cassation is pronounced. The Debtor can apply for cassation, and the Creditor, who is a party to the first-instance trial, can also be filed by another Creditor who is not a party to the first-instance trial who is dissatisfied with the decision on the application for a declaration of bankruptcy. The clerk registers the application on the date it is submitted, and the applicant is given a written receipt signed by the clerk on the same date as the receipt of registration.⁴² Furthermore, the Cassation Applicant is obliged to submit to the Court Clerk the cassation memorandum on the date the cassation application is registered where the Registrar is obliged to send the cassation application and the cassation memorandum to the cassation respondent no later than 2 (two) days after the cassation application is registered.

The cassation respondent may submit a counter-memory of cassation to the Registrar of the Court no later than 7 (seven) days after the date on which the respondent of cassation receives the memorandum of cassation. The Registrar of the Court is obliged to submit the

⁴⁰ Article 16 paragraph (1) and paragraph (2) of Law No. 37 of 2004 concerning Bankruptcy and PKPU

⁴¹ Brigitta Diffania and Wiwin Yulianingsih, "juridical review of abuse of condition (misbruik van omstandigheden) as reason for cancellation of a debt agreement," *josar (Journal of Students Academic Research)* 7, no. 2 (November 6, 2022): 479–91, <https://doi.org/10.35457/josar.v8i2.2483>.

⁴² Article 11 paragraphs (1), (2), (3), and (4) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

counter-memorandum of cassation to the applicant of cassation no later than 2 (two) days after the counter-memorandum of cassation is received. The Registrar is obliged to submit the cassation application, cassation memory, counter-cassation memory, and the relevant case file to the Supreme Court by 14 (fourteen) days after the date the cassation application is registered.⁴³

The Supreme Court is obliged to study the cassation application and set the hearing date by 2 (two) days after the Supreme Court receives the cassation application. The examination hearing is conducted 20 (twenty) days after the date the Supreme Court gets the cassation application. The decision on the cassation application must be pronounced by 60 (sixty) days after the date the Supreme Court receives the application. The Clerk of the Supreme Court is obliged to submit a copy of the cassation decision to the Registrar at the Commercial Court by 3 (three) days after the date the decision on the cassation application is pronounced. Finally, the Court bailiff is obliged to submit a copy of the cassation decision to the Cassation Applicant, Cassation Respondent, Curator and Supervisory Judge by 2 (two) days after the cassation decision is received.⁴⁴ As for the decision of a judge who has obtained permanent legal force, an application for review can be submitted to the Supreme Court. The judge's decision referred to above is on applying for a bankruptcy declaration that has obtained permanent legal force.⁴⁵

The submission of an application for review after the case is decided finds new decisive evidence that at the time the case is examined in the Court already exists but has not been found, is carried out within a period of no later than 180 (one hundred and eighty) days after the date of the decision for which the review is requested acquires permanent legal force. However, suppose there is a clear error in the decision of the judge concerned. In that case, the application for review shall be made within a period of no later than 30 (thirty) days after the decision date for which the review is requested to obtain permanent legal force.⁴⁶ The Supreme Court shall immediately examine and grant the application for review within a period of no later than 30 (thirty) days after the date of receipt of the application by the Registrar of the Supreme Court and within a period of no later than 32 (thirty-two) days after the date of receipt of the application by the Registrar of the Supreme Court, the Supreme Court shall submit to the parties a copy of the review decision containing the complete legal considerations underlying the decision.⁴⁷

The decision of the bankruptcy declaration canceled at the cassation level or review must be announced by the Curator in the State Gazette of the Republic of Indonesia and at least 2 (two) daily newspapers determined by the Supervisory Judge. The Panel of Judges that annuls

⁴³ Article 12 paragraphs (1), (2), (3), and (4) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

⁴⁴ Article 13 paragraphs (1), (2), (3), (6) and (7) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

⁴⁵ Article 295 paragraph (1) and Article 14 paragraph (1) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

⁴⁶ Article 295 paragraph (2) sub. a and b Law No. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations

⁴⁷ Article 298 paragraph (1) and paragraph (3) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations

the bankruptcy declaration decision also determines the bankruptcy fee and the Curator's Service fee charged to the applicant for the bankruptcy declaration or to the applicant and the Debtor in the comparison determined by the Panel of Judges and for the implementation of the payment of the bankruptcy fee and the Curator's Service fee, the Chief Justice issues a determination of execution on the Curator's application. The determination of bankruptcy fees is carried out by the Panel of Court Judges who decide the bankruptcy case based on the details submitted by the Curator after hearing the consideration of the Supervisory Judge.

3.4. Consideration of the Theory of Justice and Legal Certainty in Bankruptcy Law

Indonesian bankruptcy law, encapsulated in Law No. 37/2004, is designed to ensure the fair and efficient resolution of debt disputes while balancing creditor protection and debtor rights. However, the principles underpinning its enforcement, such as immediate effect (*uitvoerbaar bij voorraad*), legal certainty, justice, and utility, warrant a deeper philosophical and practical examination.⁴⁸ Justice serves as a cornerstone of Indonesian bankruptcy law, which aims to provide equitable treatment to all parties involved. Aristotle's concept of justice distinguishes between distributive and corrective justice. Distributive justice pertains to the proportional allocation of assets among creditors, while corrective justice addresses restoring balance when rights are violated. Bankruptcy law reflects these principles in several ways. The allocation of a debtor's assets, particularly through mechanisms like *actio pauliana*, exemplifies distributive justice. Here, creditors receive proportional distributions based on their claims, ensuring fairness. Corrective justice, on the other hand, is embodied in provisions that invalidate fraudulent transfers made by debtors to avoid liability.^{49,50,51}

Satjipto Rahardjo's dynamic approach to justice emphasizes that laws must align with societal values and be adaptable to changing contexts. He views law as a manifestation of societal norms, designed to promote harmony and equity. This perspective is particularly relevant in Indonesia's socio-economic context, where bankruptcy law seeks to balance creditor demands with the debtor's potential for economic recovery. For instance, the law's recognition of certain debtor protections, such as maintaining essential assets for continued operations, reflects an alignment with both justice and economic sustainability.⁵²

Legal certainty is a critical objective of bankruptcy law, ensuring that all parties can predict the legal outcomes of their actions. Gustav Radbruch's principles of legal certainty stress the need for clarity, consistency, and enforceability in laws. In theory, Law No. 37 of 2004 adheres to these principles through its emphasis on "fast resolution and simple evidence." However, practical challenges often undermine these ideals. Ambiguities in key provisions, such as the interpretation of "simple evidence" in Article 2(1), lead to inconsistencies in judicial

⁴⁸ Robert Robert, Rosa Agustina, and Bismar Nasution, "The Rationalization of Debt Discharge Policy for Individual Debtors in Indonesian Bankruptcy Regime," *Sriwijaya Law Review* 6, no. 1 (January 31, 2022): 101, <https://doi.org/10.28946/slrev.Vol6.Iss1.928.pp101-121>.

⁴⁹ Tuula Linna, "Actio Pauliana – 'Actio Europensis'? Some Cross-Border Insolvency Issues," *Journal of Private International Law* 10, no. 1 (April 17, 2014): 69–87, <https://doi.org/10.5235/17441048.10.1.69>.

⁵⁰ M.Yasir Said and Yati Nurhayati, "a review on rawls theory of justice," *International Journal of Law, Environment, and Natural Resources* 1, no. 1 (April 28, 2021): 29–36, <https://doi.org/10.51749/injurlens.v1i1.7>.

⁵¹ George Sher, *Ethics: Essential Readings in Moral Theory* (Routledge, 2012).

⁵² Satjipto Rahardjo, "Between Two Worlds: Modern State and Traditional Society in Indonesia," *Law & Society Review* 28, no. 3 (April 2, 1994): 493–502, <https://doi.org/10.2307/3054068>.

decisions. For example, while some judges strictly adhere to procedural compliance – focusing solely on the existence of multiple creditors and overdue debts – others adopt a substantive approach, considering the broader financial context of the debtor. This divergence creates unpredictability for stakeholders. Bureaucratic inefficiencies further hinder the principle of fast resolution. Delays in asset valuation, creditor meetings, and coordination among stakeholders often contradict the law’s intent. To address these issues, reforms should aim to: Clarify ambiguous provisions to ensure uniform judicial interpretation. Streamline administrative processes to reduce procedural delays. Enhance judicial training to align court decisions with legislative intent.⁵³

Jeremy Bentham’s utility theory posits that laws should maximize societal welfare by delivering the greatest benefit to the largest number of people. Indonesian bankruptcy law seeks to achieve this by balancing creditor recovery with the debtor’s opportunity for economic revival. For creditors, expedited procedures and curators’ immediate authority to manage assets minimize financial losses. For debtors, the law provides mechanisms to restructure or settle debts, thereby preserving economic activity.⁵⁴ Nonetheless, the law’s implementation reveals gaps in achieving utility. Small-scale debtors often face systemic disadvantages, as the framework tends to favour institutional creditors with greater resources and influence. This imbalance raises questions about whether the law genuinely promotes the greatest welfare for all. Policy adjustments, such as improved access to bankruptcy mechanisms for small businesses and the inclusion of social safety nets for vulnerable debtors, could enhance the law’s utility.⁵⁵

The principle of immediate enforcement (*uitvoerbaar bij voorraad*) allows bankruptcy decisions to take effect without awaiting permanent legal force. This principle is rooted in the need to protect creditors from asset dissipation during protracted litigation. Philosophically, it embodies the principles of justice and expediency, ensuring that creditors can exercise their rights promptly while maintaining the integrity of the debtor’s estate. In practice, this rule balances creditor protection with debtor rights through oversight mechanisms. Curators, acting under supervisory judges, are tasked with managing and liquidating assets responsibly. However, this system is not without flaws. Instances of conflicts of interest and self-dealing among curators highlight the need for stronger accountability measures. To improve oversight, the following measures could be implemented: Establish stricter qualifications and ethical standards for curators. Enhance the capacity of supervisory judges through specialized

⁵³ St. Samsuduha Mahmud Sakka, Sakirah Sakirah, and Rasdiana Rasdiana, “The Law of Returning Dowry in The Banggai Tradition,” *Journal of Law, Politic and Humanities* 4, no. 3 (March 14, 2024): 128–39, <https://doi.org/10.38035/jlph.v4i3.323>.

⁵⁴ Jayanto Timbang, Aloysius Wisnubroto, and Hyronimus Rhiti, “An Analysis of the Theory of Justice against the Standard of Proof Beyond Reasonable Doubt in the Judge’s Decision in the Jessica Kumala Wongso Case,” *International Journal Of Multidisciplinary Research And Analysis* 07, no. 09 (September 20, 2024), <https://doi.org/10.47191/ijmra/v7-i09-34>.

⁵⁵ Ferdinand Sembiring and Yasmirah Mandasari Saragih, “Legal Certainty In Financial Disputes Case Resolution Progressive Legal Perspective,” *Journal of Progressive Law and Legal Studies* 2, no. 02 (May 10, 2024): 152–62, <https://doi.org/10.59653/jplls.v2i02.845>.

training and increased staffing. Create independent review boards to address grievances and ensure transparency in curators' actions.⁵⁶

The distribution of a debtor's assets embodies the interplay of justice, legal certainty, and utility. From a justice perspective, the law's provisions aim to allocate assets equitably among creditors while protecting debtors from undue hardship. Legal certainty is reinforced by clear guidelines on asset distribution, ensuring predictability for all parties. Utility is realized when the process balances creditor recovery with the preservation of economic activity, benefiting the broader community. However, the effectiveness of these principles depends on robust implementation. Strengthening judicial consistency, enhancing oversight mechanisms, and addressing systemic inequalities are crucial to realizing the law's objectives.

4. Conclusions

This study concludes that the immediate nature of bankruptcy judgments is designed to provide swift protection for creditors in securing their rights, even while cassation or review processes are ongoing. This mechanism aims to prevent potential actions by debtors that could harm creditors, such as transferring or dissipating assets before the judgment attains permanent legal force. In this context, the role of the curator is pivotal, as they are granted full authority to manage and settle the debtor's assets immediately upon the pronouncement of the bankruptcy judgment. Importantly, any actions taken by the curator before the annulment of the judgment remain valid and binding, thereby ensuring legal certainty for creditors. Furthermore, the supervising judge plays a critical role in overseeing the bankruptcy process to ensure that the curator performs their duties fairly and under applicable laws. This oversight helps to safeguard justice for all parties involved. The principles of legal certainty and justice enshrined in Bankruptcy Law No. 37/2004 are fundamental in ensuring that bankruptcy proceedings are conducted efficiently and equitably. The immediate enforceability of bankruptcy judgments not only strengthens creditors' rights but also provides debtors with a fair legal process. Ultimately, this expedited and decisive bankruptcy process is expected to benefit society at large by balancing the rights of creditors and debtors while fostering trust in an effective legal system. By ensuring a fair distribution of assets and preventing abusive practices, this framework contributes to economic stability and reinforces confidence in Indonesia's legal infrastructure.

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⁵⁶Article 16 paragraph (2) of Law No. 37 of 2004, reflects the existence of legal certainty

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