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Legal Liability Framework of a Bankrupt Guarantor (Corporate Guarantee) Toward Creditors in Credit Agreements with Debtors

(Analysis of Decision No. 318/Pdt.Sus-PKPU/2022 from the Jakarta Commercial Court)

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Abstract: This research examines the legal responsibility of corporate guarantors declared bankrupt for their obligations to creditors in loan agreements, analyzing Court Decision No. 318/Pdt.Sus-PKPU/2022/PN Commercial Court Jakarta Central. The study addresses the legal complexities arising when a corporate guarantee becomes insolvent before the principal debtor defaults, creating jurisdictional conflicts between bankruptcy law and guarantee obligations. Using normative legal research methodology with a juridical normative approach, this study analyzes the application of Article 229(2) in conjunction with Article 278(6) of Law No. 37/2004 on Bankruptcy and Suspension of Debt Payment Obligations (K-PKPU) and Article 1381 of the Civil Code. The research reveals that the curator's action in obstructing and rejecting PT KawanCicil Teknologi Utama's claim registration against the bankrupt guarantor without proper judicial determination constitutes conduct not based on applicable laws and regulations. The findings demonstrate that when a guarantor is declared bankrupt and the debtor is in default, the Supervisory Judge and Curator must accept PT KawanCicil Teknologi Utama as a creditor with rights to the debtor's assets during asset liquidation proceedings. The study concludes that bankruptcy declaration of a guarantor does not automatically terminate guarantee obligations under Article 1381 of the Civil Code, as bankruptcy is not enumerated among the causes of contract termination. This research contributes to legal certainty in corporate guarantee enforcement within Indonesia's bankruptcy framework and provides recommendations for legislative harmonization between conflicting provisions in bankruptcy law.

Keywords: Corporate Guarantee; Bankruptcy Law; Creditor Protection; Legal Responsibility; Indonesian Commercial Law.

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1. Introduction

The dynamics of commercial financing in Indonesia have evolved significantly with the changing global economic landscape, necessitating comprehensive legal frameworks to protect the interests of all stakeholders involved in credit transactions. In Indonesia's diverse business environment, which encompasses both legally established entities and informal enterprises, the commercial sector has experienced substantial growth alongside transformative changes in the global economic order. The practice of lending and borrowing money has become ubiquitous across all socioeconomic strata, creating a complex web of financial relationships that require sophisticated legal mechanisms to ensure stability and security.

The Indonesian banking sector operates under stringent prudential principles when extending credit facilities to the public, employing comprehensive risk assessment procedures to safeguard the integrity of financial institutions. Central to this risk mitigation framework is the institution of guarantee (*jaminan*), which serves as a fundamental pillar in the acceleration of economic development through secure lending practices. The Civil Code of Indonesia, particularly Article 1131, establishes the foundation for general guarantees, though creditors often find these provisions insufficient for adequate protection in cases of debtor insolvency.

Indonesian jurisprudence recognizes two primary categories of guarantees: material guarantees (*jaminan kebendaan*) and personal guarantees (*jaminan perorangan*). Material guarantees provide creditors with preferential rights to claim repayment from specific assets of the debtor, while personal guarantees extend the creditor's recourse to include the personal assets of third-party guarantors. This distinction becomes particularly significant in the context of corporate guarantee arrangements, where business entities assume liability for the obligations of other corporate debtors.

The legal framework governing corporate guarantees in Indonesia has gained considerable attention in recent Scopus-indexed research, particularly regarding the intersection between guarantee obligations and bankruptcy proceedings [1]. Recent studies published in Indonesian legal journals have highlighted the complex relationship between corporate guarantee responsibilities and insolvency law, revealing significant gaps in legal protection mechanisms.

Research Firmansyah & Adjie demonstrates that corporate guarantees present unique challenges when the principal debtor faces financial distress or bankruptcy proceedings [2]. The normative juridical research methodology commonly employed in Indonesian legal scholarship has revealed inconsistencies in the application of guarantee principles, particularly in determining the extent of guarantor liability during bankruptcy proceedings [3]. These studies, utilizing statutory and case approaches consistent with Indonesian legal research traditions, have identified critical areas where legal certainty remains elusive.

The case of PT Kawancicil Teknologi Utama, as adjudicated in Decision Number 318/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst., exemplifies the contemporary challenges facing corporate guarantors in Indonesia's evolving financial landscape. This case involves a peer-to-peer lending platform operating under Indonesia's Information Technology-Based Joint Funding Services framework, highlighting the intersection of traditional guarantee law with modern financial technology applications. The dispute centers on the liability of PT Visi Eka Mulia as a corporate guarantor when subjected to Postponement of Debt Payment Obligations (PKPU) proceedings while the principal debtor had not yet defaulted.

The case presents a critical examination of the temporal aspects of guarantee activation, particularly questioning whether a corporate guarantor's bankruptcy or PKPU status affects the creditor's right to claim against the guarantee. When PT Visi Eka Mulia was declared bankrupt on April 13, 2023, followed by the principal debtor's default on May 8, 2023, fundamental questions arose regarding the continuity of guarantee obligations and creditor protection mechanisms. The curator's rejection of PT Kawancicil Teknologi Utama's creditor registration application based on the temporal sequence of events reveals significant procedural and substantive law gaps.

Contemporary research on Indonesian guarantee law has revealed substantial inconsistencies in theoretical approaches to personal and corporate guarantee responsibilities [3]. The dualistic concept of guarantee responsibility, as identified in recent legal scholarship, creates uncertainty for creditors in determining appropriate enforcement mechanisms during bankruptcy proceedings. Indonesian legal journals have increasingly focused on the need for unified conceptual frameworks to provide legal certainty in debt collection processes.

The bibliometric analysis of Indonesian legal research published in Scopus databases indicates a growing emphasis on commercial law topics, particularly those addressing the intersection of traditional civil law principles with contemporary financial practices. This research trend reflects the practical importance of resolving theoretical ambiguities that affect commercial transactions and credit facility arrangements in Indonesia's rapidly evolving economy [4].

This study contributes to the expanding body of Scopus-indexed Indonesian legal scholarship by examining the legal responsibility construction of corporate guarantors declared bankrupt concerning their obligations to creditors in debtor credit arrangements. The research addresses critical gaps identified in recent Indonesian legal literature regarding the temporal activation of guarantee obligations and the protection of creditor rights during complex insolvency proceedings [1]. By analyzing Decision Number 318/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst., this study provides empirical insights into the practical application of guarantee law principles in contemporary Indonesian commercial disputes.

The investigation seeks to clarify the legal responsibility framework for corporate guarantors who become insolvent while guaranteeing debtor obligations, contributing to the normative juridical methodology prevalent in Indonesian legal research. This research aligns with the international standards of legal scholarship reflected in Indonesian journals, employing systematic analysis of statutory provisions, case law, and doctrinal sources to advance understanding of guarantee law applications.

2. Literature Review

2.1. Legal Certainty Theory

Gustav Radbruch's legal certainty theory serves as a fundamental framework for analyzing the predictability and stability of corporate guarantee obligations in bankruptcy contexts. Radbruch's theory encompasses four essential indicators: first, that law must be positive in nature through legislation; second, that law must be grounded in factual circumstances; third, that legal provisions must be formulated clearly to avoid misinterpretation and facilitate implementation; and fourth, that positive law should not be easily changed. In the context of corporate guarantee bankruptcy cases, this theory becomes particularly relevant when examining whether creditors can rely on stable and predictable legal frameworks when enforcing guarantee obligations. The application of Radbruch's formula demonstrates that legal certainty must balance justice and legal stability, ensuring that creditors possess clear expectations regarding their rights against guarantors even when bankruptcy proceedings commence. Contemporary Scopus-indexed research has validated that Radbruch's legal certainty principles remain essential for evaluating the effectiveness of guarantee enforcement mechanisms, particularly in complex financial restructuring scenarios where multiple legal frameworks intersect [5].

2.2. Legal Protection Theory

Philipus M. Hadjon's legal protection theory provides a comprehensive framework for understanding creditor safeguards in corporate guarantee arrangements through both preventive and repressive protection mechanisms. Hadjon's theory categorizes legal protection into preventive measures, which aim to prevent disputes before they occur through clear regulatory frameworks and proper documentation, and repressive measures, which provide remedies after violations have taken place through judicial enforcement and sanctions. In corporate guarantee contexts, preventive protection manifests through proper registration procedures, clear guarantee documentation, and compliance with bankruptcy registration requirements, while repressive protection operates through court enforcement mechanisms and creditor recovery procedures. The theory emphasizes that effective legal protection must be grounded in Pancasila values, ensuring that protection mechanisms respect human dignity and provide balanced safeguards for all parties involved in guarantee relationships. Recent Scopus-indexed studies have demonstrated that Hadjon's dual protection framework remains highly relevant for analyzing creditor rights in modern financing arrangements, particularly where technological platforms and digital documentation create new challenges for traditional protection mechanisms [6].

2.3. Accessory Contract Theory

Munir Fuady's accessory contract theory establishes the foundational principle that guarantee agreements cannot exist independently but must depend entirely on the validity and continuation of the principal debt obligation. According to Fuady's theoretical framework, accessory contracts possess several defining characteristics: their existence depends entirely on the principal agreement, they become void if the principal contract is invalidated, they terminate when the principal obligation ends, and they transfer automatically with the assignment of the principal debt. This theory becomes critically important in bankruptcy scenarios where the relationship between the principal debt and guarantee obligation may be disrupted by insolvency proceedings. The accessory nature of guarantee contracts means that creditors must demonstrate both the validity of the underlying debt and the proper formation of the guarantee relationship to successfully claim against guarantors in bankruptcy. Contemporary legal analysis has shown that Fuady's accessory contract principles remain fundamental to understanding how guarantee obligations survive or terminate during bankruptcy proceedings, particularly when examining whether guarantor liability continues despite principal debtor insolvency. The theory provides essential guidance for courts and legal practitioners in determining the scope and enforceability of corporate guarantees within the broader context of debt restructuring and creditor recovery mechanisms [7].

3. Proposed Method

Based on the thesis document provided, this study employs a normative legal research methodology with a comprehensive analytical approach. The research utilizes a qualitative normative legal framework to examine the legal construction of corporate guarantee liability in bankruptcy proceedings, specifically analyzing Court Decision No. 318/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst. The methodology incorporates multiple legal approaches including statutory approach, conceptual approach, and case study analysis to investigate the legal consequences and responsibilities of corporate guarantors declared bankrupt before debtor default occurs. Primary legal materials consist of relevant legislation including Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, the Civil Code, Civil Procedure Code, and the aforementioned court decision, while secondary materials encompass legal literature, academic journals, research reports, and legal commentaries related to bankruptcy law, banking law, and guarantee institutions. The data collection technique employs library research methods focusing on legal document analysis and systematic legal interpretation, utilizing deductive reasoning that moves from general legal principles derived from regulations and literature to specific applications in real societal situations. The legal material analysis follows a descriptive-analytical method aimed at providing clear and detailed descriptions of the legal problems examined, ultimately enabling the discovery of ideas capable of resolving the identified legal issues through systematic legal reasoning and logical conclusions that can be academically justified [8].

4. Results

4.1. The Legal Status of Technology-Based Peer-to-Peer Lending Service Companies in Indonesia

Technology-Based Peer-to-Peer Lending Service Companies, known in Indonesia as *Layanan Pendanaan Bersama berbasis Teknologi Informasi* (LPBBTI), represent a significant innovation in the Indonesian financial services sector. These entities operate as financial service providers that facilitate connections between fund providers and fund recipients through direct financing arrangements, both conventional and sharia-compliant, via electronic systems using internet technology. The legal framework governing these companies reflects Indonesia's commitment to fostering financial technology innovation while maintaining regulatory oversight and consumer protection.

LPBBTI operators in Indonesia are required to establish themselves as legal entities in the form of Limited Liability Companies (*Perseroan Terbatas* or *PT*). This corporate structure is mandated under Law Number 40 of 2007 concerning Limited Liability Companies, which provides the foundational legal framework for corporate governance in Indonesia. The establishment of a PT requires compliance with specific procedural requirements, including notarial deed preparation in Indonesian language and registration with the Ministry of Law and Human Rights to obtain legal entity status.

Under the current regulatory framework established by POJK No. 10/POJK.05/2022, P2P lending providers must maintain a minimum paid-up capital of IDR 25 billion at the time of establishment, representing a significant increase from previous requirements. This capital requirement demonstrates the regulator's intention to strengthen the financial foundation of P2P lending operators and establish higher barriers to entry for new market participants.

The legal framework permits both domestic and foreign ownership in P2P lending companies, subject to specific restrictions. Foreign ownership, whether direct or indirect, is currently capped at 85% of the paid-up capital, ensuring that at least 15% of ownership remains in Indonesian hands. This ownership structure reflects Indonesia's policy of promoting foreign investment while maintaining domestic control over financial services infrastructure [9].

The legal status of LPBBTI is established through a comprehensive regulatory hierarchy. The primary legal foundations include POJK No. 10/POJK.05/2022 concerning Information Technology-Based Collective Financing Services, which replaced the previous POJK No. 77/POJK.01/2016. This regulation provides detailed provisions regarding licensing, operational requirements, and supervisory mechanisms specific to P2P lending activities [10].

The regulatory framework is further supported by Law No. 21 of 2011 concerning the Financial Services Authority (OJK), which establishes OJK's authority to regulate and supervise non-bank financial institutions, including P2P lending companies. Additionally, Law No. 27 of 2022 concerning Personal Data Protection provides crucial legal protections for user data processed by these platforms.

P2P lending companies must obtain formal business licenses from OJK to operate legally in Indonesia. The licensing process involves comprehensive evaluation of the company's business plan, risk management systems, information technology infrastructure, and compliance with fit and proper tests for key personnel. Companies are also required to register as members of the Indonesian Joint Funding Fintech Association (AFPI), which serves as OJK's official partner in market conduct supervision.

The streamlined licensing procedure under POJK 10/2022 allows companies to apply directly for business licenses without the previous two-stage registration and licensing process. This regulatory enhancement demonstrates the government's efforts to balance innovation promotion with prudential oversight.

LPBBTI companies operate under the direct supervision of OJK through the Deputy Commissioner for Non-Bank Financial Industry (IKNB) supervision. This supervisory structure ensures that P2P lending activities are monitored within the broader context of Indonesia's financial services ecosystem. OJK's supervisory authority extends to licensing, ongoing compliance monitoring, market conduct oversight, and enforcement actions against non-compliant operators.

The supervisory framework emphasizes market conduct supervision through collaboration with AFPI, which monitors member companies' adherence to industry standards and ethical business practices. This public-private partnership model enables more effective oversight of a rapidly evolving industry while leveraging industry expertise [11].

The legal framework establishes clear functional boundaries for P2P lending companies to distinguish them from traditional banking institutions. These entities are prohibited from guaranteeing loans, collecting public funds like banks, or engaging in activities outside their designated scope of connecting lenders with borrowers. Instead, they must focus on risk assessment of borrowers, maintaining data security and confidentiality, and promoting financial inclusion, particularly for SMEs and unbanked populations [12].

The legal status of P2P lending companies includes significant obligations regarding personal data protection, governed by Law No. 27 of 2022 concerning Personal Data Protection. These companies must implement comprehensive data security measures, obtain explicit consent for data processing, and ensure transparency in data handling practices. The regulatory framework addresses growing concerns about aggressive collection practices and unauthorized data sharing that have emerged in the Indonesian P2P lending market [13].

P2P lending companies must establish robust risk management systems and implement consumer protection measures as integral components of their legal compliance obligations. These requirements include conducting thorough creditworthiness assessments, maintaining appropriate lending limits, and implementing fair collection practices. The regulatory framework emphasizes the importance of financial literacy and transparency to protect vulnerable consumers [14].

The legal status of technology-based peer-to-peer lending service companies in Indonesia reflects a comprehensive regulatory approach that balances innovation promotion with prudential oversight and consumer protection. Through the requirement to establish as limited liability companies with substantial capital requirements, obtain OJK licensing, and comply with extensive operational and consumer protection obligations, these entities are firmly integrated into Indonesia's formal financial services regulatory framework. This legal structure positions P2P lending companies as legitimate financial intermediaries while ensuring they operate within appropriate bounds to maintain financial system stability and protect consumer interests.

The evolving regulatory landscape, exemplified by the recent introduction of POJK 10/2022 and ongoing refinements to the supervisory framework, demonstrates Indonesia's commitment to fostering financial technology innovation while maintaining robust legal foundations for sustainable industry development. As these companies continue to play an increasingly important role in promoting financial inclusion and supporting SME financing, their legal status provides the necessary foundation for continued growth within a well-regulated environment.

4.2. Corporate Guarantee as Security for Loan Agreements in Indonesian Technology Transactions

A corporate guarantee in Indonesian law is a non-collateral (non-kebendaan) form of security, wherein a legal entity typically a parent company undertakes to fulfill the financial obligations of a debtor if the debtor defaults. This guarantee is formalized through a written agreement between the guarantor company and the creditor, detailing the scope, terms, and conditions under which the guarantee applies. The legal framework for corporate guarantees is primarily set out in the Indonesian Civil Code (KUHPerdata), specifically Articles 1820–1850 [1].

The corporate guarantee is accessory (accesoir) in nature, meaning its existence and validity are contingent upon the underlying loan agreement. If the principal agreement is invalid or terminated, the corporate guarantee automatically lapses. The guarantee can only secure payment obligations, not performance obligations, and cannot be used to guarantee the guarantor's own debt. The liability of the guarantor is limited to the amount and terms agreed in the principal loan agreement and cannot exceed the debtor's obligations [1].

The issuance of a corporate guarantee requires:

a. A clear, written agreement specifying the obligations, conditions, and any waiver of statutory rights by the guarantor.
b. Express consent from all parties, with the guarantor's declaration made voluntarily and free from coercion or fraud, in line with Article 1321 of the Civil Code.
c. The guarantor must be legally competent and not fall under any incapacity as per Article 1330 of the Civil Code.

Unless expressly waived, the creditor must first seek repayment from the debtor before claiming against the guarantor (beneficium excussionis). This right can be contractually excluded, allowing the creditor to pursue the guarantor and debtor jointly and severally (tanggung renteng) if stipulated in the guarantee agreement.

In Indonesian technology sector transactions, corporate guarantees are often required when the debtor (such as a tech start-up or subsidiary) lacks sufficient assets or financial standing to independently secure a loan. The parent company or affiliated entity provides the guarantee to reassure creditors of repayment, thereby facilitating access to financing or technology procurement arrangements. This mechanism is particularly prevalent in high-value or cross-border technology deals, where risk mitigation for creditors is paramount.

Corporate guarantors enjoy certain statutory protections, such as the right to be released from liability if the creditor's actions prejudice their ability to recover from the debtor

(Articles 1848–1849 KUHPerdata). However, if the guarantor expressly waives these privileges, the creditor may pursue insolvency proceedings against both the debtor and the guarantor upon default, provided the guarantee agreement clearly establishes joint and several liability [1].

The structure of corporate guarantees reflects principles of justice and contractual balance, as articulated by John Rawls and Aristotle. All parties creditor, debtor, and guarantor are afforded equal legal standing and protection, ensuring fairness and proportionality in the allocation of risk and responsibility. The accessory nature of the guarantee preserves legal certainty, while the requirement for explicit, voluntary consent upholds the integrity of contractual freedom and justice in commercial dealings.

In summary, corporate guarantees serve as a critical risk mitigation tool in Indonesian technology loan transactions, governed by strict legal formalities and grounded in principles of fairness, proportionality, and legal certainty. Their use enables technology companies to access credit while providing creditors with additional assurance, provided all statutory and contractual safeguards are observed.

4.3. Registration of Claims Against Bankrupt Estate

The registration of claims constitutes a fundamental procedural mechanism within Indonesia's bankruptcy framework that determines creditor participation in the distribution of bankruptcy assets (*boedel pailit*). This process, governed comprehensively by Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Bankruptcy Law), specifically Articles 113 through 144, establishes the legal foundation for creditor claim verification and asset distribution.

Following the issuance of a bankruptcy declaration by the Commercial Court, the appointed curator must announce the deadline for claim submissions through mandatory publication in two daily newspapers and the State Gazette of the Republic of Indonesia. The Supervising Judge determines this deadline no later than fourteen days after the bankruptcy declaration, establishing the temporal framework for creditor participation [15].

Creditors must submit written claims to the curator within the prescribed timeframe, typically thirty days from the bankruptcy announcement. The claim submission requires comprehensive documentation including: creditor identification, debt amount, legal basis for the claim (contracts, invoices, court decisions), security status, supporting evidence (legal or commercial documents), and banking information for potential distribution.

The verification meeting (*rapat verifikasi*) represents a critical legal forum presided over by the Supervising Judge and attended by the curator, registered creditors, and the debtor if present. This singular meeting serves to verify, reconcile, and validate all submitted claims through a systematic examination process [15].

Claims undergo rigorous evaluation resulting in four possible classifications: full recognition, partial recognition, rejection, or contestation by the curator or other creditors. The curator maintains separate lists for acknowledged claims and disputed claims, with notations regarding preferential or secured status [16].

Successfully registered creditors acquire fundamental rights including participation in bankruptcy estate distribution according to the *paritas creditorium* principle (excluding preferential creditors), authority to object to distribution lists, and voting rights in creditor meetings including composition agreements (*akkoord*). These rights reflect the principle of creditor equality within the bankruptcy framework [17].

Creditors failing to register within the statutory deadline forfeit their right to participate in bankruptcy estate distribution, except where justified grounds exist for late submission as provided under Article 139 of the Bankruptcy Law. This temporal requirement emphasizes the procedural nature of bankruptcy proceedings and the necessity for timely creditor action.

The claim registration process transcends mere administrative formality, constituting a substantive legal mechanism that determines creditor status and rights within bankruptcy proceedings. The process ensures transparent asset distribution while maintaining the integrity of the *paritas creditorium* principle, thereby balancing creditor interests with procedural efficiency. Creditors must demonstrate proactive engagement, accuracy, and timeliness in claim submission to preserve their rights in the liquidation of the bankruptcy estate. This procedural framework reflects Indonesia's commitment to establishing a structured and equitable bankruptcy system that protects creditor rights while ensuring orderly debt resolution through the Commercial Court system.

4.4. Execution of Non-Collateral Guarantee or Corporate Guarantee

Corporate guarantee constitutes a form of personal security (*persoonlijke zekerheid*) rather than material security, as it does not attach to specific assets but derives from contractual obligations between parties. Under Indonesian law, corporate guarantees are governed by Book III of the Indonesian Civil Code, specifically Articles 1820-1850 concerning guarantee agreements (*borgtocht*). The legal foundation establishes that corporate guarantee represents an agreement whereby a third party, for the benefit of the creditor, binds itself to fulfill the debtor's obligations when the primary debtor fails to perform [18].

The accessory nature of corporate guarantees means their existence and validity depend entirely on the underlying principal agreement. This characteristic distinguishes corporate guarantees from material securities, as they cannot guarantee performance obligations but are limited to payment obligations only. The enforcement of corporate guarantees in Indonesia follows three primary civil law pathways, each with distinct procedural requirements and legal implications.

The primary mechanism involves filing a lawsuit (*gugatan*) against the guarantor in the district court having jurisdiction over the guarantor's domicile or residence. This traditional approach requires full adjudication of the guarantor's liability under the guarantee agreement, following standard civil procedural rules.

When corporate guarantees are embodied in authentic deeds containing executorial clauses, enforcement may proceed through execution applications to the court pursuant to Article 224 HIR. This mechanism applies to notarial deeds (*grosse akta*) bearing the executorial formula "For Justice Based on Almighty God". The grosse system provides expedited enforcement procedures, as these documents possess the same legal force as final court judgments [19].

In cases where the guarantor company is declared bankrupt, claims arising from corporate guarantees must be registered with the curator as ordinary concurrent claims. The corporate guarantee holder ranks as a concurrent creditor rather than a secured creditor, lacking preferential rights in bankruptcy distributions.

Corporate guarantees under Indonesian law possess several inherent limitations that affect their enforcement. The guarantor's liability cannot exceed the primary debtor's obligations, and the guarantee cannot extend beyond the original agreement's scope. Unless specifically waived, guarantors retain the right to demand that creditors first pursue the debtor's assets before claiming against the guarantee.

The non-material nature of corporate guarantees results in their classification as concurrent claims in bankruptcy proceedings, providing no preferential treatment in asset distributions. This limitation significantly impacts the practical value of corporate guarantees compared to material securities that confer preferential creditor status.

Research indicates that corporate guarantee implementation in Indonesian banking practice often serves more as moral assurance than enforceable legal security. The absence of specific regulatory frameworks for corporate guarantees creates uncertainty regarding their enforcement, particularly in complex corporate structures involving holding companies and subsidiaries [20].

The case of PT Visi Eka Mulia in Decision No. 318/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst exemplifies the practical challenges in corporate guarantee enforcement within Indonesia's legal framework. The positioning of corporate guarantees in suspension of debt payment obligations (PKPU) proceedings remains contentious, with judicial interpretations varying regarding their inclusion as respondents in such proceedings.

The execution of corporate guarantees in Indonesia operates within a framework that prioritizes contractual obligations while acknowledging the inherent limitations of non-material securities. The three-tiered enforcement mechanism provides creditors with options ranging from traditional litigation to expedited execution procedures, though the effectiveness of each depends on specific circumstances and the guarantor's financial condition. The concurrent creditor status of corporate guarantee holders in bankruptcy proceedings underscores the importance of careful risk assessment and potential supplementary security arrangements in commercial transactions.

5. Discussion

5.1. Legal Responsibility of a Bankrupt Corporate Guarantor in Credit Agreements Based on Decision 318/Pdt.Sus-PKPU/2022/PN Niaga Jkt.Pst

The legal liability of corporate guarantors in bankruptcy proceedings represents a complex intersection of guarantee law and insolvency proceedings under Indonesian jurisprudence. The decision in case 318/Pdt.Sus-PKPU/2022/PN Commercial Court Jakarta Central provides significant insights into how corporate guarantee obligations are affected when creditors fail to register properly in bankruptcy proceedings.

Under Article 189 of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU), the curator bears the obligation to compile a distribution list of bankruptcy estate sales proceeds. This list must contain detailed receipts and expenditures, including curator fees, creditor names, verified claim amounts, and the portion allocated to each creditor. The distribution list requires approval from the Supervising Judge and must be publicly announced through mass media to ensure transparency and fairness in the bankruptcy estate distribution process.

In the aforementioned decision, the corporate guarantee liability of PT Visi Eka Mulia was terminated due to the failure of PT Kawancicil Teknologi Utama to register as a creditor in the PKPU proceedings. This non-registration resulted in PT Kawancicil Teknologi Utama lacking legal standing to pursue claims against the corporate guarantor. The decision establishes that only creditors properly listed in the verified and approved creditor distribution list possess the legal right to receive portions of the bankruptcy estate.

The termination of agreements under Indonesian civil law is governed by Article 1381 of the Civil Code, which stipulates ten grounds for the extinction of obligations. These grounds include: (1) payment or debt settlement; (2) tender of payment with deposit; (3) novation; (4) set-off; (5) confusion of debts; (6) debt release; (7) destruction of the subject matter; (8) nullity or cancellation; (9) fulfillment of resolutive conditions; and (10) prescription.

Significantly, a bankruptcy declaration does not automatically constitute grounds for contract termination under the Civil Code framework. The legal consequences of PT Visi Eka Mulia's bankruptcy declaration did not directly terminate the guarantee agreement; rather, the termination resulted from the indirect implications of creditor non-registration in the bankruptcy proceedings.

The failure of PT Kawancicil Teknologi Utama to register as a creditor in Decision 318/Pdt.Sus-PKPU/2022/PN Commercial Court Jakarta Central produced four significant legal consequences:

First, the corporate guarantee liability terminated because the unregistered creditor lacked legal standing to demand payment from the guarantor. Second, the curator's creditor list serves as the definitive legal verification mechanism determining eligibility for bankruptcy estate distribution, rendering unregistered claims void by operation of law. Third, transparency and fairness are maintained through public announcement of distribution lists and Supervising Judge approval, ensuring all parties can ascertain claim status and estate distribution. Fourth, corporate guarantees remain effective only against legally registered creditors, precluding enforcement against guarantors for claims by creditors who failed to follow proper bankruptcy procedures or lack legal recognition.

The curator's verification process, conducted in coordination with the debtor, establishes the legal foundation for creditor recognition. This verification mechanism ensures that only legitimate creditors with properly documented claims receive consideration in bankruptcy proceedings. The Commercial Court's jurisdiction over bankruptcy matters reinforces the importance of adhering to prescribed procedural requirements for creditor registration.

The decision in case 318/Pdt.Sus-PKPU/2022/PN Commercial Court Jakarta Central demonstrates that corporate guarantee liability in bankruptcy proceedings depends critically upon proper creditor registration and verification processes. The termination of PT Visi Eka Mulia's guarantee obligations resulted not from the bankruptcy declaration itself, but from PT Kawancicil Teknologi Utama's failure to comply with mandatory creditor registration procedures under Indonesian bankruptcy law. This precedent reinforces the principle that corporate guarantees operate within a structured legal framework that requires strict adherence to procedural requirements for creditor recognition and claim enforcement.

5.2. Legal Responsibility of Corporate Guarantors Under Bankruptcy in Credit Agreements

The evolution of corporate guarantee practices in credit agreements has introduced significant legal complexities, particularly when the guarantor is declared bankrupt. The Jakarta Central Commercial Court Decision No. 318/Pdt.Sus-PKPU/2022 serves as a critical case study for analyzing the legal responsibilities of guarantors within the context of bankruptcy proceedings. This case demonstrates the dynamic application of Article 1831 of the Indonesian Civil Code (KUHPerdata) and Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU), specifically regarding guarantor privileges and debt settlement obligations.

Corporate guarantors function as third parties who bind themselves to fulfill debtor obligations in cases of default. The fundamental legal question arises when the guarantor itself is declared bankrupt: whether creditors can still pursue debt settlement through guarantor assets, or whether guarantor bankruptcy transfers this responsibility. The legal responsibility of guarantors in corporate guarantee agreements must be understood as accessory agreements attached to principal agreements, meaning guarantor obligations depend on the primary debtor's obligations.

Under Article 1831 of the Indonesian Civil Code, guarantors are only obligated to pay debts when the primary debtor fails to fulfill their obligations, establishing a subsidiary and accessory nature of guarantor responsibility. However, modern corporate guarantee practices frequently involve guarantors waiving their special rights (beneficium excussionis), creating direct and joint liability with the primary debtor. Article 1836 of the Civil Code stipulates that when guarantors waive their privileges, they become jointly liable with the primary debtor, enabling creditors to directly file bankruptcy petitions against guarantors without first pursuing the primary debtor.

Law No. 37 of 2004 concerning Bankruptcy and PKPU establishes that curators have the authority to receive and register claims from creditors, including claims against bankrupt guarantors. Article 165 of the Bankruptcy Law confirms that guarantors retain legal responsibility for primary debtor obligations during bankruptcy proceedings, allowing guarantor claims to be accepted and registered by curators. The law mandates that curators conduct verification of claims submitted by creditors under Article 72, including examination of supporting documentation completeness and validity.

Article 127 of the Bankruptcy Law emphasizes curator obligations to act independently and diligently in executing duties, including accepting and rejecting claims. When claim rejections occur, Article 278(6) provides that creditors may file objections, with Supervisory Judges issuing determinations after consulting creditor meetings. Curator rejections without Supervisory Judge determinations violate statutory procedures and may harm creditor interests while creating legal uncertainty in bankruptcy proceedings.

The complexity of legal dispute resolution options in bankruptcy proceedings creates significant challenges for legal certainty. When curators reject claims without proper judicial oversight, creditors face procedural obstacles that may compromise their recovery rights. The system requires balanced mechanisms ensuring curator authority is exercised within appropriate legal boundaries while protecting creditor interests through transparent bankruptcy processes.

Bankruptcy dispute resolution involves specific procedural pathways, including cassation appeals against Supervisory Judge determinations and renvoi procedures for challenging curator decisions. These mechanisms serve as important oversight instruments ensuring creditor rights are not arbitrarily ignored and verification processes operate fairly and transparently. The renvoi procedure reflects checks and balances principles within the bankruptcy system, maintaining judicial supervision over curator authority while strengthening legal certainty and creditor protection.

The legal responsibility of corporate guarantors declared bankrupt under credit agreements requires careful application of both civil and bankruptcy law principles. The interaction between guarantor privilege waivers, joint liability provisions, and bankruptcy procedures creates a complex legal framework that demands precise procedural compliance and judicial oversight. Effective implementation requires clear contractual provisions, proper curator conduct, and accessible dispute resolution mechanisms to ensure legal certainty and creditor protection in bankruptcy proceedings.

6. Conclusions

Based on the comprehensive legal research presented in this thesis, two fundamental conclusions emerge regarding the protection of creditor rights in bankruptcy proceedings. The curator's actions in obstructing and rejecting PT KawanCicil Teknologi Utama's claim registration against the guarantor or bankrupt respondent without proper judicial determination constitute conduct that lacks legal foundation under existing statutory provisions. The legal protection afforded to creditors pursuant to Article 229(2) in conjunction with Article 278(6) of Law No. 37/2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (K-PKPU) mandates that when a curator rejects a creditor's claim, coordination with the supervisory judge is required, and if reconciliation proves impossible, the supervisory judge must resolve the matter through judicial determination. Consequently, PT KawanCicil Teknologi Utama should be recognized as a registered creditor without necessitating additional legal remedies or separate litigation proceedings.

The legal implications of bankruptcy declarations create specific obligations for judicial oversight and asset distribution that must be strictly observed. Given that the guarantor has been declared bankrupt and the debtor has been found in default, the supervisory judge and curator are legally obligated to accept PT KawanCicil Teknologi Utama as a creditor with legitimate rights to the debtor's assets during the curator's asset liquidation process. Under Article 1381 of the Civil Code, the occurrence of bankruptcy does not fall within the categories of obligation termination, and the legal consequences of bankruptcy estate are limited to the debtor's loss of rights to control and manage assets included in the bankruptcy estate from the date of bankruptcy declaration. While the debtor's authority becomes severely restricted to legal acts that provide benefits or increase assets designated as bankruptcy estate, and bankruptcy decisions practically impact asset management and business continuity including potential operational cessation and employee termination, all bankruptcy estate management actions remain under curator and commercial court supervision. Although alternative legal remedies exist through miscellaneous lawsuits to ensure PT KawanCicil Teknologi Utama's registration and rights in bankruptcy asset liquidation, the K-PKPU Law's provisions regarding objections to debt lists under Article 127(1) remain irrelevant when curators and supervisory judges fail to provide judicial determinations as required under Article 229(2) in conjunction with Article 278(6) of Law No. 37/2004 concerning K-PKPU.

References

[1] H. Jayadi, “Legal Protection of Corporate Guarantees Against Applications for Postponement of Debt Payment Obligations (PKPU) in Indonesian Civil Procedural Law,” *Russ. Law J.*, vol. 11, no. 3, pp. 3177–3181, 2023. [Online]. Available: https://russianlawjournal.org/index.php/journal/article/view/2752

[2] H. Firmansyah and H. Adjie, “Collateral Guarantor Liability for Debts of Debtors in Bankruptcy,” *Sosioedukasi J. Ilm. Ilmu Pendidik. dan Sos.*, vol. 14, no. 1, pp. 145–153, 2025, doi: 10.36526/sosioedukasi.v14i1.5248.

[3] L. M. Ramadhania, “A Dualistic Concept of Personal Guarantee Responsibility and Its Relevancy with Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligation,” *Leg. Br.*, vol. 12, no. 1, pp. 22–35, Apr. 2023, doi: 10.35335/legal.v12i1.751.

[4] N. P. A. Aryawati, I. Triyuwono, R. Roekhudin, and E. Mardiati, “Bibliometric analysis on Scopus database related internal control in university: a mapping landscape,” *Cogent Bus. Manag.*, vol. 11, no. 1, Dec. 2024, doi: 10.1080/23311975.2024.2422566.

[5] M. Muslih, “Negara Hukum Indonesia Dalam Perspektif Teori Hukum Gustav Radbruch (Tiga Nilai Dasar Hukum),” *Leg. J. Huk.*, vol. 4, no. 1, pp. 130–152, 2017.

[6] C. N. Irawan, P. Pujiyono, and I. Cahyaningtyas, “Implementation of Business Judgement Rules in Indonesia: Theories, Practices, and Contemporary Cases,” *Indones. J. Advocacy Leg. Serv.*, vol. 4, no. 1, pp. 1–24, Apr. 2022, doi: 10.15294/ijals.v4i1.53335.

[7] M. Fuady, *Hukum Pailit dalam Teori dan Praktek*. Bandung: Citra Aditya Bakti, 2017.

[8] M. R. Saputra and W. Setiadi, “Implementation Of General Principles Of Good Government In The Organization Of The 2024 Elections,” *Int. J. Law Soc.*, vol. 1, no. 3, pp. 94–112, May 2024, doi: 10.62951/ijls.v1i3.65.

[9] I. G. P. Wijaya and C. S. T. Kansil, “Tanggung Jawab Direktur PT PMA yang Tidak Mendapatkan Pengesahan sebagai Badan Hukum dan Sudah Menjalankan Usahanya Berdasarkan Peraturan Perundang-undangan di Indonesia (Studi Kasus PT X dan PT Y),” *J. Huk. Adigama*, vol. 1, no. 2, p. 620, Jan. 2019, doi: 10.24912/adigama.v1i2.2849.

[10] A. Nurhaliza and I. Haryanto, “Implementasi Kebijakan Moratorium Fintech Peer-to-Peer Lending Terhadap Perlindungan Konsumen,” *J. USM LAW Rev.*, vol. 7, no. 3, pp. 1193–1210, Sep. 2024, doi: 10.26623/julr.v7i3.10303.

[11] J. Shalmont and D. Dominica, “Fenomena Maraknya Peer-to-Peer Lending di Masa Pandemi Covid-19: Mitigasi Risiko Hukum bagi Peminjam,” *Law Rev.*, vol. 21, no. 3, p. 309, Mar. 2022, doi: 10.19166/lr.v0i3.4806.

[12] E. Tobing, “The Effect of Using Financial Information Service System (SLIK) on Bad Credit Rate in Fintech Peer to Peer Lending,” *Int. J. Soc. Serv. Res.*, vol. 3, no. 7, pp. 1772–1784, Jul. 2023, doi: 10.46799/ijssr.v3i7.444.

[13] F. P. Manggala, “Legal Protection For Third Parties Who Are Provided As Individual Guarantees By Fintech Peer-To-Peer Lending,” *J. Justiciabelen*, vol. 6, no. 2, p. 1, Dec. 2023, doi: 10.30587/justiciabelen.v6i2.6992.

[14] A. D. Arini, “Legal Literature Review of Peer to Peer Lending in Indonesia: Building Sharia FinTech Ecosystem,” *Az-Zarqa’ J. Huk. Bisnis Islam*, vol. 16, no. 1, pp. 36–57, Sep. 2024, doi: 10.14421/trzf5c05.

[15] B. S. Rukmono, “The Role of Supervisory Judge in the Bankruptcy of Foundation,” *Yustisia*, vol. 8, no. 1, pp. 69–78, 2019, doi: 10.20961/yustisia.v8i1.28000.

[16] Z. N. Zuroidah and D. D. I. Prasetyo, “Legal Framework and Creditor Rights in Bankruptcy: Analyzing Property Collateral Protection,” *J. Multidiscip. Res.*, vol. 3, no. 1, pp. 71–83, Aug. 2024, doi: 10.56943/jmr.v3i1.636.

[17] Yuhelson and Maryano, “The Priority Distribution of Wealth the Debtor’s Bankrupt (Boedel Bankruptcy) Towards Separatist and Preferential of Creditor Based on Principles of Fairness and Legal,” *Southeast Asia Law J.*, vol. 2, no. 1, p. 1, Apr. 2018, doi: 10.31479/salj.v2i1.66.

[18] S. Susanti, “Pembaharuan Hukum Penanggungan: Studi Perbandingan dengan Hukum Penanggungan (Borgtocht) di Belanda,” *J. IUS Kaji. Huk. dan Keadilan*, vol. 6, no. 3, p. 377, Dec. 2018, doi: 10.29303/ius.v6i3.580.

[19] R. Y. Sinaga, “Dualisme Makna Akta Pengakuan Hutang,” *PATTIMURA Leg. J.*, vol. 1, no. 3, pp. 212–221, Nov. 2022, doi: 10.47268/pela.v1i3.7506.

[20] F. P. Rianto, “Kepastian Hukum terhadap Kreditur dalam Penyelesaian Kredit Macet dengan Jaminan Corporate Guarantee Dihubungkan dengan Pasal 1820 Kitab Undang-Undang Hukum Perdata,” *Aktual. (Jurnal Hukum)*, vol. 3, no. 2, pp. 616–634, Dec. 2020, doi: 10.29313/aktualita.v0i0.6757.