

## **Position of Depositors in the Bankruptcy of Multidana Savings and Loans Cooperative in Ambarawa**



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**ABSTRACT:** KSP Multidana went bankrupt or disbanded, but the members' rights who had not yet fulfilled all of the funds were returned by the cooperative, while the members who borrowed themselves had not fully returned the money borrowed by the members to date. This study aims to determine the legal consequences of the bankruptcy decision of KSP Multidana through the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMg jo 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg for the depositor of funds, the position of the depositor as a result of the bankruptcy of the Multidana Savings and Loans Cooperative (KSP), and the settlement process in the bankruptcy of the Multidana Savings and Loans Cooperative (KSP). The method used in this article is an empirical juridical approach. The results of this study indicate the legal consequences of the bankruptcy decision of KSP Multidana through the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMg jo 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg for member depositing funds is a member depositing funds unable to withdraw their deposit funds due to a general confiscation. The position of the depositors as a result of the bankruptcy of the Multidana Savings and Loans Cooperative (KSP) is the same (creditorium parity) as concurrent creditors as stipulated in Article 1131 of the Civil Code, and therefore they have the same rights over the results of the execution of the bankrupt bank according to the number of their respective bills.

**KEYWORDS-** cooperative, bankruptcy, members, savings, depositors.

### **I. INTRODUCTION**

Cooperatives are one of the main foundations in supporting and enhancing the development of the national economy. At the commencement of Indonesia's independence, cooperatives were controlled by Law Number 14 of 1965 regulating Cooperatives. After that, there were several regulations regarding the cooperative, which underwent several changes, starting from the abolition of the law and being replaced by Law no. 12 of 1967 concerning the Principles of Cooperatives, then by Law Number 25 of 1992 concerning Cooperatives and the most recent is Law Number 17 of 2012 concerning Cooperatives (from now on referred to as the Cooperative Law). The revisions to the Indonesian cooperative law, which are carried out from time to time, are primarily carried out to improve and develop the function of cooperatives as pillars of the Indonesian economy.

The existence of cooperatives in business and commerce is highly significant and strategic to drive and guide development activities in the economic sphere, especially in the context of facing the currents of globalization and liberalization of the increasingly complicated world economy. Cooperatives are a kind of cooperation in the economic area. People hold this collaboration because of the similarity in the types of their life demands. Together, these people work on their everyday demands and needs relating to their firm or household. To attain this purpose, it is vital to maintain continual cooperation. Hence an association was founded as a form of cooperation (Anoraga and Widiyanti, 2017).

According to Ministerial Decree No: 351/Kep/M/XII/1998, while carrying out commercial activities to obtain funds from members, there are 2 (two) forms of permissible savings, namely cooperative savings and time deposits. To address the savings needs of its members, cooperatives might form several types of cooperative savings and time deposits. Giving names and provisions governing the forms of cooperative savings and time deposits is the authority of the cooperative management.

In the community, Savings and Loans Cooperatives gather funds from the public who are not members of the cooperative in the form of time deposits by paying interest to their clients above bank interest. By depositing a set amount of money in the cooperative, potential consumers are given the hope that later, they will earn great returns, and profits can be made without working hard. This offer is quite appealing because people will be more motivated to be pragmatic to acquire an advantage. Strong motivation to achieve huge profits might cause individuals to disregard the business's rationale and potential risks. Therefore, many individuals become attracted and invest their money.

Cooperatives in a state of loss and unable to pay their debts have two options for resolving the situation: a member meeting resolution or a government decision, as outlined in Government Regulation No. 17/1994 on the dissolution of cooperatives by the

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government. Law Number 37 of 2004 about Bankruptcy and Suspension of Debt Payment Obligations also dissolved the company. A court, in this case, the commercial court, declares a debtor bankrupt if he cannot pay his debts. In compliance with government legislation, debtor assets may be distributed to creditors (Lontoh, 2011).

This study makes use of the principle of legal certainty. Certainty is a (state) condition, provision, or stipulation that is definite. The law must be fundamentally specific and just. It must be a code of behavior and fairness since a reasonable command must be supported by the code of conduct. The law can only perform its functions if it is just and executed consistently. The question of legal certainty can only be answered normatively, not sociologically (Rato, 2010).

Kelsen states that the law is a set of rules. Norms are statements that stress features of "should" or *das sollen* by incorporating regulations regarding what must be done. Norms are the result of conscious human conduct. Laws providing general norms serve as guidance for the behavior of individuals in society, both regarding other individuals and to society as a whole. These principles restrict society's ability to burden or take action against individuals. These rules and their application establish legal certainty (Soeroso, 2013). Implementation is the execution of anything desired by one or more individuals. In the meantime, as defined by Article 1313 of the Civil Code, an agreement is an activity in which one or more parties bind themselves to one or more other parties. Therefore, the execution of a contract consists of the performance of one or more legally binding acts.

Article 1 paragraph 1 of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations states, "Bankruptcy is a general confiscation of all assets of the Bankrupt Debtor, whose management and settlement are carried out by the Curator under the supervision of the Supervisory Judge, as prescribed by the Act" (Subekti, 2014). The term bankruptcy is derived from the French word *faillite*, which implies payment jam. The term "Failiet" is used in Dutch. Whereas in Anglo-American law, this statute is known as the Bankruptcy Act, its name under Canadian law is the Bankruptcy Act (Hartini, 2007). The court, in this case, the commercial court, declares a debtor bankrupt when he cannot pay his debts due to financial difficulties. The distribution of debtor assets to creditors is permitted by government legislation (Lontoh, 2011).

The originality of the research describes the differences and similarities between the researcher and previous researchers in the field of study. This is done to avoid repeating the study, so what distinguishes current researchers from their predecessors can be determined. A study by Andraini (2018) demonstrates that one of the bankruptcy cases of the Civilian Persada Cooperative (KPM) is based on Decision Number 35/Pdt.Sus-PKPU/2015/PN Niaga Jkt.Pst that the Civilian Persada Cooperative (KPM) has a default case and at least Rp. 1.35 trillion customer funds are involved in this savings and loan cooperative. From the PKPU decision 35/Pdt.Sus-PKPU/2015/P.Niaga Jkt.Pst, it was not immediately apparent that the Persada Mandiri Cooperative (KPM) had been legally dissolved. The legal ramifications of the Persada Mandiri cooperatives' bankruptcy decision do not contradict Decree No. 351/Kep/M/XII/1998 of the Minister of Cooperatives and Small and Medium Enterprises about the Implementation of Savings and Loans Business Activities by Cooperatives. Due to the fact that the bankruptcy decision only governs the debts and receivables between debtors and creditors. In the meantime, the decree of the Minister of Cooperatives and Small and Medium Enterprises governs the dissolution of cooperatives following a declaration of insolvency. A study (Suharto, 2019) researching the bankruptcy of cooperative legal entities with the results of research on cooperative legal entities is an activity conducted by a group or groups that prioritize activities based on kinship, cooperative, mutual cooperation based on equality, rights, and obligations to achieve common goals, namely the welfare of all Cooperative members. This gives rise to two dimensions of cooperatives, namely the social and economic dimensions, namely achieving prosperity through cooperation and mutual cooperation based on an idea, structural, and operational foundation. While the research results (Chairanie and Afriana, 2021) indicate that Members of the KSP Pandawa Mandiri Group may also be referred to as Creditors, who are subsequently referred to as Depository Creditors for savings and loan activities conducted within the KSP Pandawa Mandiri Group. Depositing Creditors are included in the Concurrent Creditor level, where each Depositing Creditor Member has no guarantees and special rights regarding the return of their Receivables. The regulations in the Criminal Procedure Code permit the resolution of KSP Pandawa Mandiri Group issues that intersect with Criminal Law issues. The division of Bankruptcy assets that have been confiscated under the Criminal Law can only be reclaimed if it cannot be proven that they were obtained through criminal activity.

This research differs from previous research, which examined normative responsibilities when cooperatives declare bankruptcy. In contrast, this study examines the legal ramifications of KSP Multidana's bankruptcy decision and the position of depository members.

This research used a normative legal methodology. The juridical definition is intended for reviewing, viewing, and analyzing problems using legal principles. While normative emphasizes speculative-theoretical steps (theoretical steps) and normative-qualitative analysis when conducting research (Soekanto and Mamudji, 2012). The norm in this research is a descriptive analysis study, which details the legal principles, the legal system, the degree of vertical and horizontal synchronization, comparative law, and an empirical legal catalog (Soekanto, 2007). The majority of the data was collected directly from the subject through interviews. Original data are sociological data that can be investigated by all parties associated with the content of the author's scientific research papers to answer the questions posed in the summary of questions. Secondary data can be obtained through library research, related research journals, and books on scientific research work. This research used qualitative analysis methods to analyze the collected data, including answering questions systematically by interpreting the data and presenting it in sentences,

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studying processes or discoveries that occur naturally based on legal discipline, and conducting qualitative analysis by induction. There will be a discussion of general issues, and it is anticipated that these issues can be resolved so that conclusions can be drawn more easily (Soemitro, 1990).

### **II. RESULT AND DISCUSSION**

#### **A. Legal Consequences of the Bankruptcy Decision of KSP Multidana through the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMg in conjunction with 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg for Depository Members.**

In accordance with the provisions of Article 222 paragraph 3 of the UUKPKPU, the Creditor is authorized to apply for a PKPU against his debtor if the Creditor believes that the Debtor will be unable to continue paying his due and collectible debts, to allow the Debtor to submit a reconciliation plan that can provide a settlement. Based on the above evidence and explanations, it is clear that the PKPU Respondent has not paid its debt, which has matured and can be billed to the PKPU Petitioner with a value of Rp. 1,175,000,000- (one billion one hundred seventy-five million rupiahs); Whereas it is clear that the PKPU Respondent has more than one Creditor in the cases of PKPU Petitioner I and PKPU Petitioner II,

The PKPU Petitioners estimate that the PKPU Respondent will not be able to continue paying its due and collectible debts, so it would be reasonable to grant the a quo PKPU application so that the PKPU Respondent can submit a reconciliation plan that is capable of providing clarity and certainty of payment. These debts are settled by the procedures outlined in Law 37/2004 on Bankruptcy and PKPU. The judge also determined that the KSP Multidana Management was liable for the losses incurred by the Cooperative; Respondent II PKPU, Respondent III PKPU, and Respondent IV PKPU as Management of Cooperatives under Article 34 paragraph (1) of Law Number 25 of 1992 about Cooperatives.

Based on the above considerations, it is clear that the Decision of the Commercial Court at the Semarang District Court Number 09/Pdt.Sus-Pailit/2017/PN Niaga SMg. conjunction Number 12/Pdt.Sus-PKPU/2016/PN Niaga SMg., May 15, 2017, does not conflict with the law, so the cassation application submitted by KSP Multidana and friends must be rejected. This decision led to the 2018 bankruptcy of KSP Multidana.

The Multidana Savings and Loans Cooperative has been declared bankrupt by the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMG in conjunction with 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg, resulting in the inability of KSP Multidana to pursue legal action against their assets or assets owned.

The primary objective of the bankruptcy process against cooperatives is to expedite the liquidation process in distributing cooperative assets to pay cooperative debts because cooperatives have encountered financial difficulties that have rendered them unable to pay their due debts. Therefore, the existence of the bankrupt cooperative will end immediately as a result of the accelerated settlement of the assets liquidation process. The fundamental principle of cooperative bankruptcy is to expedite the liquidation and distribution of cooperative assets to all creditors (Suyudi, Nugroho, and Nurbyanti, 2014).

Based on the assembly's legal considerations and the previously stated facts, the Multidana Savings and Loans Cooperative may be declared bankrupt and satisfies all of the requirements specified in Article 2 paragraph (1) in conjunction with Article 8 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. The judges will initially consider formalities such as the legality of cooperatives, ministerial considerations, legal actions, and cooperatives' effects.

In accordance with Article 9 of Law Number 25 of 1992 concerning Cooperatives, legal entity status is conferred upon cooperatives upon ratifying their articles of incorporation by the government. The Multidana Savings and Loans cooperative is a legal entity in this situation. Therefore, if a legal entity is recognized as a person in civil procedural law or as a legal subject, it can also be a party to a lawsuit. In the Civil Procedure Code, legal entities are always represented. According to the law or their articles of association, what represents them are organs that have the right (vide Article 1655 of the Criminal Code).

Creditors are required to submit their respective receivables to the Curator at the meeting of creditors, accompanied by calculations or other written statements indicating the nature and amount of the receivables, accompanied by a letter of evidence or a copy thereof, and a statement indicating whether or not the Creditor has a particular right, lien, fiduciary guarantees, mortgage rights, mortgages, or the right to hold objects as collateral (article 114 UUKPKPU)

Based on the provisions of the article, it can be concluded that the PKPU Debtor's inability to apply for reconciliation due to the decision to declare bankruptcy on the refusal of a reconciliation rendered the debtor's bankruptcy estate immediately insolvent (unable to pay). Article 178, paragraph 1 states, "If the reconciliation meeting is not offered, the proposed reconciliation plan is not accepted, or the ratification of the reconciliation is rejected based on a decision with permanent legal effect, the bankruptcy estate is insolvent." In this instance, the legal consequences for the Bankrupt Debtor, KSP Multidana, concerning its insolvency assets are that KSP Multidana is liquidated or dissolved (Article 55 of Law No. 25 of 1992).

The author believes that the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMg in conjunction with 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg complied with the provisions of the Act. No. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, in particular, Article 2 paragraph (1) concerning the conditions for

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bankruptcy in conjunction with Article 8 paragraph (4) So that the Multidana Savings and Loans Cooperative can be declared bankrupt in this context, and the Multidana Savings and Loans Cooperative's bankrupt assets have been in a state of insolvency since the decision was issued.

Article 114 of Law No. 37 of 2004 on Bankruptcy and Postponement of Debt Payment Obligations states that a bankrupt debtor has the right to offer a settlement to all creditors. The bankruptcy process of the Multidana Savings and Loans cooperative is conducted without undergoing the reconciliation process. The settlement is due eight days before the receivables matching meeting. And as can be seen from the formulation above, reconciliation is a right of the bankrupt debtor; therefore, reconciliation will never occur in a bankruptcy case if the bankrupt debtor does not exercise his rights. According to the preceding description, creditors are prohibited from collecting their debts from debtors during the bankruptcy process. In Article 26 of the UU-KPKPU, creditors, must report their receivables to the Curator for further verification and bankruptcy settlement.

In addition to affecting the debtor, the legal ramifications of a bankruptcy decree issued by the Commercial Court also affect the creditor. Creditors in KSP Multidana are members who have deposited funds. Members of the depositor/creditor, namely Chandra Wijaya Tan and Sri Sunarni Sutirto, filed the petition for a bankruptcy declaration against KSP Multidana, resulting in the bankruptcy decision of KSP Multidana, through the Commercial Court Decision Number 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg dated May 8, 2017, and confirmed by the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit

The judges will first consider the formalities of the bankruptcy applicant's submission of a petition for the debtor's bankruptcy as a creditor. As a particular legal rule (*lex specialis*), Law Number 37 of 2004 concerning Bankruptcy and Postponement of Obligation for Payment of Debt regulates parties who have legitimacy *standi in judicio* to apply can file for bankruptcy. Where in these provisions, it turns out there is no single regulation that specifies how to file a petition for a cooperative's bankruptcy. To resolve the main issues in this case, it is necessary to introduce several provisions contained in Law No. 37 of 2004 regarding Bankruptcy and Suspension of Debt Payment Obligations and Law No. 25 of 1992 regarding Cooperatives and their implementing regulations, particularly Government Regulation of the Republic of Indonesia No. 9 of 1995 regarding Implementation of Savings and Loans Business Activities by Cooperatives.

Article 2 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations states that a debtor with two or more creditors and at least one due and collectible debt may be declared bankrupt by a court. Thus, a debtor can only be declared bankrupt if they have at least two (two) creditors. A *concursum creditorum* is a requirement for the existence of at least 2 (two) or more creditors. (Sjahdemi, 1998). The author believes that the existence of the debt in this bankruptcy case can be proven simply because the definition of debt in Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations is, in a broad sense, namely, an obligation that can be stated in the amount of money. The obligation to pay deposits that fall due can be included in the meaning of debt.

In Article 2 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, "maturity and collectible" is defined as the obligation to pay debts that have fallen due either because it has been agreed upon, acceleration of collection time as agreed, the imposition of sanctions or fines by the competent authority, or because the decision of a court, arbitrator, or panel of arbitrators in an agreement does not exempt the debtor from payment. In this notification, the creditor must be given a period of time to repay the debt. In a credit agreement clause titled "event of default," an event of default refers to the occurrence or failure of the debtor to carry out an obligation. According to the author, the Multidana Savings and Loans cooperative has reached maturity and can be billed in the event of insolvency, given that the debt condition has been satisfied. The Law on Bankruptcy and Suspension of Debt Payment Obligations stipulates that an application for a declaration of bankruptcy must be granted if it can be demonstrated that the requirements to be declared bankrupt, as outlined in Article 2 paragraph (1), have been met.

Based on the above description of evidence in bankruptcy cases, judges are required to master the law of evidence and civil law (as well as other relevant laws) to determine the parties' legal relationship (the petitioner and the defendant for bankruptcy). The judge's decision to accept or reject the bankruptcy application will be based on the evidence results.

According to the author, article 8 paragraph (4) of the Bankruptcy Law and Suspension of Debt Payment Obligations has been satisfied in the KSP Multidana bankruptcy case, which conducted simple proof. If referring to the provisions of Article 8 paragraph (4) of the Bankruptcy Law and Suspension of Debt Payment Obligations, the application for a declaration of bankruptcy must be granted if the requirements to be declared bankrupt, as outlined in Article 2 paragraph (1), have been satisfied.

Because the period of obligation to pay debts has expired, and creditors do not consent to the postponement of obligation to pay debts, as stated in Article 230 paragraph (1) and Article 289 of Law No. 37 of 2004 Concerning Bankruptcy and Postponement of Obligations for Payment of Debt. The judge determined that the Multidana Savings and Loans Cooperative (KSP) Multidana was in a state of bankruptcy and was subject to all legal consequences because the creditors are holding voting rights disapproved/rejected the debtor's reconciliation proposal. Article 292 of Law No. 37 of 2004 on Bankruptcy and Postponement of Obligations to Pay Debts also guides the judges. Based on the provisions of the article, it can be concluded that the PKPU Debtor's inability to apply for reconciliation as a result of the decision to declare bankruptcy on the refusal of a



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reconciliation resulted in the bankruptcy estate of the debtor entering an immediate state of insolvency (unable to pay). Since the issuance of this bankruptcy decision, the bankrupt assets of Multidana Savings and Loan Cooperative (KSP) (In Bankruptcy) have been in a state of insolvency.

The legal consequence for depositors is KSP Multidana's inability to return their funds. In addition, KSP Multidana assets that are to be returned to members cannot be sold directly; instead, they must await the settlement of the curator in the management and settlement of bankrupt assets. According to (Article 189 of Law No. 37 of 2004), members of the depositor receive payment from the debtor's assets cleared by the curator in proportion to the amount of savings they have, which causes execution delays and split delays will be more profitable. In the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMG in conjunction with the 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg, there is no rehabilitation in principle.

The bankruptcy process is terminated by repaying all receivables from creditors or reaching reconciliation (*akkoor*) in a verification meeting. In practice, the debtor's assets are insufficient to repay all receivables. creditor. If the reconciliation meeting is not reached, the debtor is in a state of insolvency (unable to pay). As insolvency continues, the general confiscation process continues. The sale of the debtor's assets is possible because the conservator's confiscation of the debtor's assets becomes an executorial confiscation during the insolvency phase. In such cases, the bankruptcy ends with the compilation and implementation of a binding distribution list from the confiscated or sold assets of the debtor. (Prodjohamidjojo, 2009).

Thus, as a legal consequence of the conclusion of the bankruptcy proceeding, whether by the first or second method, the bankrupt debtor regains his authority to conduct management and ownership actions (*daden van beheer er daden van eigendom*). The right to sue remains for creditors and creditors whose receivables have not been paid in full. If the debtor acquires additional assets in the future, these creditors retain the right to demand payment of the remaining receivables. Article 178 paragraph (1) of the Bankruptcy Law defines insolvency as a state of inability to pay, indicating that insolvency occurs for legal purposes if there is no reconciliation and the bankruptcy estate is unable to pay all outstanding debts.

Due to the general confiscation outlined in Article 1 paragraph 1 of Law No. 37 of 2004, members of depositors of funds cannot withdraw their deposited funds. This is understandable because in bankruptcy, what occurs is a general confiscation of all debtor's assets followed by forced liquidation. Later, the proceeds from the forced liquidation are divided on a *a pari pasu prorata parte* basis among the creditors unless there is one among the creditors. Creditors who must have priority under Article 1132 of the Civil Code (Nating, 2005).

In addition, KSP Multidana assets that are to be returned to members cannot be sold directly; instead, they must await the settlement of the curator in the management and settlement of bankrupt assets. Legally, bankrupt assets are executed and distributed immediately unless factors (such as business considerations) make execution and distribution delays more profitable. In the Semarang Commercial Court Decision Number 09/Pdt.Sus-Pailit/2017/PN.Niaga SMG in conjunction with the 12/PDT.SUS-PKPU/2016/PN.Niaga.Smg, there is no rehabilitation in principle. In terms of insolvency, there has been no reconciliation, and the bankrupt debtor's assets are less than their liabilities, making rehabilitation impossible. It is evident that rehabilitation occurs if, for example, there is peace or the debt can be paid in full (in Article 215 of Law No. 37 of 2004). Rehabilitation can be proposed under Article 215 of the Bankruptcy Law unless, after an insolvency, the debtor's assets become bankrupt, such as an inheritance or a lottery win, allowing the debt to be paid in full. KSP Multidana cannot pay its obligations to the depositing member because the debtor's assets are less than its obligations to the depositing member. Creditors cannot make direct collections from debtors in the event of a cooperative's bankruptcy, as the bankruptcy process after the debtor is declared bankrupt is the matching of receivables, and the curator handles settlement.

According to the description, the legal consequences of the bankruptcy decision of the Multidana Savings and Loans Cooperative (KSP) include the stages of compiling a list of distributions by the curator with the approval of the Supervisory Judge; for concurrent creditors, the Curator shall distribute the share determined by the Supervisory Judge to creditors whose receivables have been matched and for accepted receivables with the approval of the Supervisory Judge.

### **B. Legal Position of Depositor of Funds Due to the Bankruptcy of the Multidana Savings and Loans Cooperative (KSP).**

In settling debts between creditors and debtors, bankruptcy is a commercial solution when the debtor cannot pay his creditors. Therefore, when the debtor's debt is due, and the debtor must pay his debt, it becomes possible to file a petition for bankruptcy against the debtor. Under these conditions, the bankruptcy institution is expected to serve as a more efficient, effective, and proportional alternative institution to settle debtors' obligations to creditors. The Bankruptcy Act must provide creditors and debtors with equal protection. The Bankruptcy Law was enacted to provide benefits and protection to creditors if the debtor does not pay his debts; with this Law, it is hoped that creditors can gain access to the assets of debtors who are declared bankrupt due to inability to pay debts.

To achieve peace between the Debtor and Creditor or distribute the Debtor's assets equitably among the Creditors, bankruptcy entails the legal confiscation of all Debtor's assets. According to Rachmadi Usman, bankruptcy is the inability of a debtor to pay his debts when they are due. The bankruptcy cannot be declared arbitrarily; it must be declared by the court, either at its request or at the request of an individual or third party. To achieve peace between the debtor and creditors or distribute the debtor's assets equitably among the creditors, bankruptcy entails confiscating all of the debtor's assets (Rahardjo, 2003). In this case, the court

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carries the confiscation. It then executes on all of the debtor's assets for the common interest of the creditors, following the general guarantee principle of Article 1131 and Article 1132 of the Civil Code. Article 1131 of the Civil Code establishes a unique principle for concurrent creditors. This is the preference rights principle, which states that creditors have the right to be repaid their funds or deposits as a form of debt. Bankruptcy, according to the provisions of Article 1 paragraph (1) of Law no. 37 of 2004, which is the definition of bankruptcy; which is consistent with the nature of bankruptcy; Bankruptcy is a general confiscation of all assets of a bankrupt debtor whose management and settlement are carried out by the Curator under the supervision of the Supervising Judge, as stipulated by this law.

In Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, the definition of a creditor is a person with court-collectible receivables arising from an agreement or law. However, the explanation of Article 2 paragraph (1) of Law No. 37 of 2004 defines concurrent creditors, separatist creditors, and preferred creditors as creditors in this paragraph. Separatist creditors and preferred creditors can file for bankruptcy without forfeiting their collateral rights to the debtor's property or their right to take precedence.

The creditor element under Law No. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations is a person with court-collectible receivables arising from an agreement or law. By comparing the elements of members and creditors, it is evident that there are similarities between the two groups, namely the existence of a receivable in the form of a cooperative obligation to members, which will be paid by giving these obligations priority over other debt payments. These similarities make it possible to analyze the position of the depositor of funds using the creditor element.

Basically, the position of creditors or members of depositors as concurrent creditors is the same (creditorium parity), as outlined in Article 1131 in conjunction with Article 1132 of the Civil Code. Consequently, they have the same rights over the results of the execution of the bankrupt bank in proportion to the number of their respective bills (*pari passu prorata*). The concept underlying the principle of creditorium parity is that it is unjust for a debtor to own property while owing money to a creditor. The principle of creditorium parity is unfair because it equalizes the position of creditors. These concurrent creditors are governed by the origin of Civil Code section 1132. According to Law No. 37 of 2004, concurrent creditors are creditors with *pari passu* and *pro rata* rights, which means that creditors collectively receive repayment (without any precedence) that is calculated based on the number of their respective receivables relative to their total receivables., to all of the debtor's assets. Consequently, concurrent creditors have the same position in paying off debts from the debtor's assets, with no priority.

Article 1132 of the Civil Code defines unsecured creditors as those who are not included in the groups of separatist creditors or preferred creditors. The remainder of the sale/auction of the bankruptcy estate after the share of separatist and preference groups has been deducted is sufficient to cover their receivables. The remaining proceeds from the sale of bankrupt assets are distributed proportionally to the size of the concurrent creditors' receivables.

Basically, creditors' beliefs and trust are based on general guarantee principles as stipulated in Article 1131 of the Civil Code. All the debtor's property, both movable and immovable, both now and in the future, serve as collateral for all his engagements. This indicates that the Debtor's assets fully secure the debt. Thus, the principles of external creditor relations are reflected, namely: a) A creditor may demand repayment of any portion of the debtor's assets; b) Any portion of the Debtor's assets may be sold to satisfy the Creditor's claim; and c) Creditor's claim rights are only guaranteed by the Debtor's assets, not by the Debtor's person. Creditors who are members of KSP Multidana's depository funds have the right to obtain financial services from cooperatives, obtain reports on cooperative transactions, and obtain or withdraw their deposited funds.

The concurrent creditors in the bankruptcy of this cooperative have the same preferential rights over the results of the execution of the bankrupt boedel in proportion to the size of their respective claims because their positions are identical (*paritas creditorium*) (*pari passu prorata parte*). This principle has exceptions, namely the creditor group whose rights are prioritized in accordance with Law No. 37 of 2004 concerning PKPU Bankruptcy and other laws and regulations (Article 1139 and Article 1149 of the Civil Code). In the case of KSP Multidana, the principle of creditorium parity only applies to concurrent creditors, as there are no separatist creditors.

## CONCLUSIONS

Based on the chapter-by-chapter description of the setting. So furthermore, the author concludes from the existing problems and discussions that members of depositors of funds cannot withdraw their funds due to general confiscation. Members of depositors of funds receive payments from the debtor's assets cleared by the curator in the number of deposits in KSP Multidana because the debtor's assets are in a state of insolvency. This is understandable because, in reality, bankruptcy entails confiscating all of the debtor's assets, followed by a forced liquidation; the proceeds from the forced liquidation are then distributed on a *pari passu pro rata* basis among the creditors unless Article 1132 of the Civil Code stipulates otherwise. In addition, KSP Multidana assets that are to be returned to members cannot be sold directly; instead, they must await the settlement of the curator in the management and settlement of bankrupt assets.

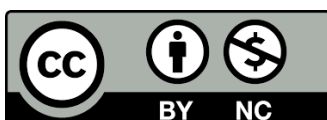
According to Law No. 37 of 2004, concurrent creditors are creditors with *pari passu* and *pro rata* rights, which means that creditors collectively obtain repayment (without any precedence) that is calculated based on the number of their respective

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receivables relative to their total receivables. Of all the debtor's assets. Consequently, concurrent creditors have the same position in paying off debts with the debtor's assets, with no one having priority.

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