



Disparity in Bankruptcy Rulings: Rethinking the Principle of Simple Proof in the Indonesian Commercial Judiciary

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Abstract

This study investigates the principle of simple proof in Indonesian bankruptcy law, as stipulated in Article 8(4) of Law No. 37 of 2004, and its inconsistent application in judicial practice. The purpose of the research is to critically examine the disparity in court decisions regarding the interpretation of "simple proof" and to propose a more objective and balanced evidentiary standard. Employing a normative juridical methodology, the study integrates statutory, case-based, and conceptual approaches, focusing on the Central Jakarta Commercial Court Decision No. 23/Pdt.Sus-Pailit/2022 and its affirmation by the Supreme Court Decision No. 1714 K/Pdt.Sus-Pailit/2022. These rulings illustrate a substantive judicial interpretation that deviates from the formal criteria of simple proof, resulting in the dismissal of a bankruptcy petition despite the fulfillment of normative requirements. The findings reveal that the absence of clear parameters for simple proof has led to disparities in judicial decisions, undermining legal certainty and creditor protection. The originality of this study lies in its typological classification of disparity in Indonesian bankruptcy rulings and its formulation of a proposed evidentiary framework aimed at reducing judicial inconsistency. The research recommends issuing a Supreme Court Circular (SEMA) or revising the Bankruptcy Law to ensure consistent, equitable adjudication. These reforms are essential to upholding the principles of justice and balance in bankruptcy proceedings.

INTRODUCTION

In modern legal systems, bankruptcy is no longer merely a mechanism to penalize debtors who fail to repay their debts; rather, it serves as a legal instrument that must uphold the principles of justice, legal protection, and a balance between the rights of creditors and debtors. In Indonesia, the regulation of bankruptcy and the Suspension of Debt Payment Obligations (PKPU) is formally stipulated in Law Number 37 of 2004. This law sets forth the requirements for declaring a party bankrupt, one of which is through the concept of “simple proof,” which merely requires demonstrating the existence of two or more creditors and a debt that is due and payable.

Bankruptcy serves as a legal instrument aimed at providing legal certainty in the resolution of debt disputes between creditors and debtors. One of the fundamental principles in filing for a bankruptcy declaration is the presence of simple proof, as emphasized in Article 8(4), which states that a bankruptcy petition may be granted if it is simply proven that there are two or more creditors and that the debt is due and collectible.¹

In the context of civil procedural law concerning bankruptcy, the concept of simple proof should serve as an objective, not subjective, evidentiary tool. When judges overly focus on the value of the debt or the debtor’s ability to pay without considering the formal elements of proof, the meaning of simplicity in the legal context is distorted. This leads to legal uncertainty, as cases that meet the bankruptcy criteria may be rejected due to inconsistent judicial interpretation. Therefore, a more substantive approach to simple proof is necessary to ensure coherence between legal norms and judicial practice.

On the other hand, legal certainty as a fundamental principle in the modern judicial system must go hand-in-hand with the principle of justice. Creditors, as the aggrieved parties in debt relationships, possess legal interests that deserve proportional protection. Judicial decisions must not be understood as formally neutral but should also take into account the substantive impact on the restoration of creditors' rights. In this regard, judges play a strategic role in fostering both procedural and substantive justice capable of mitigating legal disparities in practice.

Given this complexity, it is imperative for bankruptcy procedural law to adopt stricter interpretative guidelines in determining the simplicity of proof. Moving forward, consistent jurisprudence and normative updates in the Bankruptcy Law are urgently needed to prevent legal imbalances. This study aims to provide relevant input for the

¹ M Handi Shubhan, *Hukum Kepailitan* (Jakarta Timur: Prenada Media, 2015).

development of regulation and commercial court practices in Indonesia, ultimately striving for a genuine balance between creditor protection and debtor rights.

Nevertheless, in practice, the concept of simple proof often provokes debate due to the absence of explicit and standardized criteria for determining whether a case meets the elements of simplicity.² This results in normative ambiguity, which allows broad judicial discretion. Consequently, some court rulings may reject bankruptcy petitions even when simple proof requirements are met and formal evidences, such as invoices and demand letters, are presented.

Research on the mechanism of Suspension of Debt Payment Obligations (PKPU) has been extensively conducted within the field of civil law, particularly in relation to bankruptcy. Prior literature underscores that PKPU serves as a legal alternative aimed at granting debtors the opportunity to restructure their debts and avoid bankruptcy status with far-reaching implications. In this context, the suspension does not constitute debt forgiveness but rather provides a time window for debtors to formulate a settlement plan with their creditors.³

In Central Jakarta Commercial Court Decision No. 23/Pdt.Sus-Pailit/2022, affirmed by the Supreme Court Decision No. 1714 K/Pdt.Sus-Pailit/2022, the bankruptcy petition against PT Bhadra Samudra Indah was rejected without considering the creditors' claim that the debtor had fulfilled the requirements for bankruptcy under the principle of simple proof.⁴ The decision attracted public attention as it indicated that simple proof was interpreted more in terms of cumulative nominal value rather than substantively, thereby failing to ensure balanced protection for creditors whose claims were disputed in terms of amount and basis.

However, in the Supreme Court Decision No. 1714 K/Pdt.Sus-Pailit/2022, the Court explicitly reinforced the application of simple proof, stating that even though the debtor (PT Bhadra Samudra Indah) was financially solvent, the existence of due and payable debts and more than one creditor was sufficient legal ground to declare bankruptcy.

This situation indicates a possible misapplication of legal principles inconsistent with the principle of justice, as in some cases bankruptcy petitions may be easily rejected by

² Nelson Kapoyos, "Konsep Pembuktian Sederhana Dalam Perkara Kepailitan Kajian Putusan Nomor 125 PK/PDT. SUS-PAILIT/2015," *Jurnal Yudisial* 10, no. 3 (2017).

³ Agam Mei Yudha Yudha, Ramdani Bayu Putra, and Hasmaynelis Fitri, "Analisis Pengaruh Likuiditas, Pertumbuhan Perusahaan, Ukuran Perusahaan Terhadap Nilai Perusahaan Dengan Profitabilitas Sebagai Variabel Intervening," *Journal of Innovation Research and Knowledge* 1, no. 12 (2022): 1567-76, <https://doi.org/10.53625/jirk.v1i12.2118>.

⁴ Dedy Tri Hartono, "Perlindungan Hukum Kreditor Berdasarkan Undang-Undang Kepailitan" (Tadulako University, 2016).

the courts even though the simple proof requirements have been fulfilled.⁵ Such practices create a disparity in legal protection, particularly for creditors who are denied their rights due to rulings that fail to comprehensively consider their objections.

This phenomenon reflects a tension between the principle of legal certainty and the principle of justice. In this case, creditors are entitled to the assurance of debt repayment. Therefore, it is essential to reassess how courts apply the principle of justice within the context of simple proof, to avoid disparities in rulings and legal uncertainty, and to clarify whether a bankruptcy petition should only be granted based on a large accumulated debt or on substantial legal grounds.

In the Dutch bankruptcy system (*faillissementsrecht*), the principle of bankruptcy petitions is governed by the Dutch Bankruptcy Act (*Faillissementswet*). Essentially, the criteria for proving bankruptcy in the Netherlands also refer to very simple standards, namely:

1. The existence of more than one creditor (*pluraliteit van schuldeisers*);
2. The existence of a due and payable debt (*opeisbare vordering*);
3. The debtor's inability to pay (although in practice, the focus is merely on the failure to meet obligations when due, not the total solvency).

Judges in the Netherlands are not permitted to delve into the debtor's asset valuation or business prospects if the formal elements of creditor plurality and matured claims are already established. In other words, Dutch bankruptcy law prioritizes quick and concise adjudication to protect creditors and prevent manipulation by debtors.⁶

The concept of simple proof in Indonesia is actually similar in spirit – Article 8(4) of Law No. 37 of 2004 only requires verification of two creditors and a due and payable debt. However, in practice, Indonesian judges often broaden the interpretation by examining the nominal value of the debt, the debtor's business condition, or even solvency, even though such factors are not explicitly mandated by law.

From this comparative study, it is evident that the Dutch *faillissementsrecht* offers a more consistent and stringent application of simple proof, thereby ensuring legal certainty for creditors. Indonesia can draw lessons by formulating clearer parameters for

⁵ Annisa Latifah and Khairus Febryan Fitrahadi, "Perindungan Kreditor Dalam Penerapan Asas Keadilan Berdasarkan Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan Dan PKPU:(Studi Putusan Nomor. 3/Pdt. Sus-Pembatalan Perdamaian/2022/PN. Niaga. Smg Jo Nomor 1/Pdt. Sus-PKPU/2021/PN. Niaga. Smg)," *Jurnal Commerce Law* 4, no. 1 (2024): 256–64, <https://doi.org/10.29303/commercelaw.v4i1.4583>.

⁶ Ketut Gde Swara Siddhi Yatna and Ni Putu Purwanti, "Perbandingan Hukum Negara Indonesia Dengan Hukum Negara Belanda Dalam Penyelesaian Perkara Sisa Hutang Debitor Pailit" (Udayana University, 2020).

simple proof to minimize multi-interpretation at the judicial level and to more effectively realize the objectives of bankruptcy proceedings – namely, being fast, simple, and low-cost.

Literature Review

Previous studies have examined the practice of simple proof and the application of the principle of balance in Indonesian bankruptcy cases. Despite their varied focuses and perspectives, these studies remain relevant in enriching the discourse and contextualizing the urgency of reforming the parameters of simple proof to make them fairer and more consistent. Below are several studies that may serve as references and comparisons for this research.

In writing this article, the author acknowledges that there have been previous studies relevant to the practice of bankruptcy in Indonesia, particularly concerning simple proof and the principle of balance. One such study is by Yordinand, Hasim Purba, Rosnidar Sembiring, and Dedi Harianto (2024), titled *The Principle of Going Concern as the Basis for Declaring Bankruptcy on Solvent Debtors*, which analyzes Supreme Court Decision No. 1714 K/Pdt.Sus-Pailit/2022 jo. No. 23/Pdt.Sus-Pailit/2022/PN Niaga Jakarta Pusat.⁷

The study emphasizes that the principle of going concern should be a primary consideration before declaring bankruptcy on solvent debtors. They assert that bankruptcy should be a last resort (*ultimum remedium*) when no other solutions are viable for maintaining the debtor's productivity. This research contributes by discussing how the court rejected a bankruptcy petition, even though the formal requirements were met, in order to protect the debtor's business, differing from earlier research that focused solely on simple proof as the basis for fulfilling bankruptcy elements. The novelty lies in adjusting the principle of going concern with the principle of simple proof while affirming creditor protection, even when the claim amount is relatively small.

Additionally, Hadijah Haerani, Dinda Arba Fauzia, Nyulistiowati Suryanti, and Deviana Yuanitasari (2023), through their research titled *Analysis of the Resolution of the Suspension of Debt Payment Obligations in the Case of PT BRI Syariah and PT Insan Medika at the Central Jakarta Commercial Court Related to the Principle of Balance*, also highlight the role of judges in rejecting PKPU and directly declaring the debtor bankrupt for repeated

⁷ Yordinand Yordinand, "Asas Kelangsungan Usaha Sebagai Dasar Penentuan Kepailitan Terhadap Debitor Solven (Studi Kasus Putusan Mahkamah Agung Nomor: 1714 K/PDT. SUS-PAILIT/2022 Juncto 23/PDT. SUS-PAILIT/2022/PN NIAGA. JKT. PUSAT)" (Universitas Sumatera Utara, 2024), <https://repositori.usu.ac.id/handle/123456789/98727>.

defaults.⁸ This study is significant for its focus on legal protection for creditors harmed by the debtor's noncompliance, rather than merely pursuing the principle of business preservation. Its novelty lies in demonstrating how judges prioritize creditor protection to substantively balance the rights of both parties – unlike prior literature that tends to view PKPU as merely a means to avoid bankruptcy.

Furthermore, Nelson Kapoyos (2017), in his article *The Concept of Simple Proof in Bankruptcy Cases*, enriches the discourse on simple proof.⁹ He examines bankruptcy petitions filed by cessionary creditors and questions the necessity of notifying the debtor of the cession in bankruptcy petitions. Through analysis of Decision No. 125 PK/Pdt.Sus-Pailit/2015, Kapoyos argues that the concept of simple proof in bankruptcy law should not require formal notification of the cession via court bailiffs, as Article 613 of the Civil Code does not mandate such. His findings reveal inconsistencies in the Supreme Court's interpretation of simple proof regarding cession, resulting in legal uncertainty for cession-holding creditors.¹⁰ His research underscores the need for clearer parameters of simple proof to avoid disadvantaging creditors using the cession mechanism.

Unlike Kapoyos' study, which focuses on cession-related simple proof, this article examines the broader disparity in bankruptcy decisions, including normative, juridical, and jurisprudential typologies arising from judges' multi-interpretations of simple proof elements, both in bankruptcy petitions and in ensuring justice for debtors and creditors. Thus, the novelty of this article lies in offering a formulation of consistent and equitable parameters for simple proof to reduce national-level decision disparities.

Viqi Anugraha and Adlin Budhiawan (2023), in their article *The Principle of Simple Proof as a Requirement for the Suspension of Debt Payment Obligations*, also offer critical insights into simple proof in bankruptcy and PKPU.¹¹ Their study asserts that Article 8(4) in conjunction with Article 2(1) of the Bankruptcy and PKPU Law only requires simple proof for bankruptcy petitions, not for PKPU. Nonetheless, judges in some cases still apply simple proof when assessing PKPU, citing the principle of swift, simple, and low-

⁸ Hadijah Haerani et al., "Analisis Penyelesaian Penundaan Kewajiban Pembayaran Utang Dalam Kasus PT. BRI Syariah Dengan PT Insan Medika Di Pengadilan Niaga Jakarta Pusat Dikaitkan Dengan Asas Keseimbangan," *Jurnal Tana Mana* 4, no. 2 (2023): 166–77, <https://doi.org/10.33648/jtm.v4i2.262>.

⁹ Kapoyos, "Konsep Pembuktian Sederhana Dalam Perkara Kepailitan Kajian Putusan Nomor 125 PK/PDT. SUS-PAILIT/2015."

¹⁰ Novelia Adistie and Jarkasi Anwar, "Hubungan Keabsahan Pengalihan Piutang (Cessie) Yang Dilakukan Secara Berulang Kali Terhadap Perpindahan Hak Tanggungan Milik Debitur," *Yustisia Tirtayasa: Jurnal Tugas Akhir* 1, no. 1 (2021): 93–117, <https://doi.org/10.51825/yta.v1i1.11407>.

¹¹ Viqi Anugraha and Adlin Budhiawan, "Prinsip Pembuktian Sederhana Sebagai Syarat Penundaan Kewajiban Pembayaran Hutang," *Journal of Education Research* 4, no. 2 (2023): 742–51, <https://doi.org/10.37985/jer.v4i2.201>.

cost justice. Viqi and Adlin demonstrate how judges' varied interpretations of simple proof affect PKPU petitions as well, particularly regarding disputed debts, the number of creditors, and debt maturity status. Their study concludes that the ambiguity surrounding the application of simple proof in both PKPU and bankruptcy leads to legal uncertainty, thus necessitating the strengthening of legal norms and evidentiary parameters.

In contrast, this article specifically focuses on decision disparities within the bankruptcy domain, examining decisions that reflect inconsistency in simple proof parameters at the commercial court level, including the typology of normative, juridical, and jurisprudential disparities. The novelty lies in its proposal of more objective and equitable parameters for simple proof, offering a meeting point between formal principles and substantive justice to minimize judicial multi-interpretation and achieve more balanced protection of parties' rights in bankruptcy.

Moreover, Devi Andani and Wiwin Budi Pratiwi (2021), in their article *The Principle of Simple Proof in Bankruptcy Suspension Requests*, stress that simple proof is regulated only in bankruptcy petitions, not PKPU, although it may be applied by judges under the principle of efficient judicial process.¹² However, in Supreme Court Decision No. 1714 K/Pdt.Sus-Pailit/2022, it is clarified that even if the debtor is solvent, the requirements for simple proof are still considered fulfilled as long as there is more than one creditor and a due and collectible debt. Thus, the principle of going concern does not automatically preclude bankruptcy petitions. This study offers a different perspective by analyzing how the normative concept of simple proof is applied in contemporary cases rather than relying solely on historical data. Its implication stresses the importance of active judicial roles in maintaining a balanced protection between creditors and debtors in fair bankruptcy proceedings.¹³

Accordingly, this research is crucial in analysing the parameters for applying the principle of simple proof in Indonesia's bankruptcy legal system and assessing the extent to which current judicial practice ensures justice between creditor and debtor rights as envisioned by modern legal principles.

This research is timely and necessary, considering the scarcity of legal studies that critically evaluate the application of the principle of justice in Indonesian bankruptcy

¹² Devi Andani and Wiwin Budi Pratiwi, "Prinsip Pembuktian Sederhana Dalam Permohonan Penundaan Kewajiban Pembayaran Utang," *Jurnal Hukum IUS QUIA IUSTUM* 28, no. 3 (2021): 635-56, <https://doi.org/10.20885/iustum.vol28.iss3.art9>.

¹³ Muhammad Shoim, *Hukum Kepailitan: Konsep, Penyelesaiannya & Pandangan Hukum Islam* (Semarang: Penerbit Lawwana, 2025).

practice. This study not only examines the normative provisions in the Bankruptcy Law but also reviews jurisprudence and real-life case studies to identify an ideal formula for applying simple proof fairly and proportionally. It implies a balanced protection of rights between debtors and creditors, emphasizing the pivotal role of judges in maintaining fairness and equilibrium between creditor protection and debtor rights.

Therefore, the author is interested in conducting a study titled *The Principle of Justice: Disparity in Simple Proof Decisions in Commercial Courts*. By focusing on Decision No. 23/Pdt.Sus-Pailit/2022/PN Niaga Jakarta Pusat as the core case, this research is expected to provide both practical and theoretical contributions to the development of bankruptcy law in Indonesia, while also reinforcing the role of judges as guardians of balance in commercial litigation.

METHOD

This research uses normative legal methods supported by empirical data to enrich the analysis. The approach used includes a statute approach and a case approach, focusing on the principle of the best interests of the child in the investigation process of cases of sexual violence against children, especially in the context of termination of investigation tested through pretrial decisions. Data sources include primary legal materials in the form of laws and regulations and decisions, secondary legal materials such as scientific literature, and tertiary legal materials in the form of dictionaries and encyclopedias. Empirical data was obtained through semi-structured interviews with investigators from the PPA Unit of the South Jakarta Metro Police. Interviews were conducted using a pre-designed guide, taking into account ethical principles, such as informed consent, recording and recording with permission, and maintaining confidentiality. The selection of interviewees was done by purposive sampling, taking into account the relevance of experience, access, availability, and internal institutional procedures, and ensuring that the interviewees were active investigators handling cases of sexual violence against children. Data were analyzed qualitatively through content analysis, with stages including examination, selection, coding, reconstruction, systematization, and deductive analysis. The main themes were drawn from an integrated reading of normative sources and interviewees' statements, then interpreted by looking at the patterns that emerged both in legal construction and in empirical narratives. The results of the analysis are presented in a descriptive- analytical manner.

RESULT AND DISCUSSION

1. Analysis of the Application of the Principle of Simple Proof in Decision No. 23/Pdt.Sus-Pailit/2022 jo. No. 1714 K/Pdt.Sus-Pailit/2022

Article 8 paragraph (4) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU) stipulates that a petition for a declaration of bankruptcy may be granted if it is simply proven that there are two or more creditors and that the debtor has debts that are due and payable. However, in practice, the term “simple proof” lacks a rigid definition, which creates broad interpretive space for judges to assess whether the requirements have been fulfilled.

Decision No. 23/Pdt.Sus-Pailit/2022, affirmed by the Supreme Court in Decision No. 1714 K/Pdt.Sus-Pailit/2022, illustrates how differing interpretations of simple proof can significantly influence the outcome of a case. The bankruptcy petition filed by the creditor was rejected by the panel of judges, despite the normative presence of more than one creditor and debts that were already due.¹⁴ The judges reasoned that the amount of the debt had not been established with certainty, and thus the case was deemed not to meet the simple proof requirement.

This raises a legal issue concerning the protection of creditor rights – particularly in cases where creditors have already presented evidence of their claims and issued formal demands (somasi), yet still do not receive adequate legal protection. In such instances, the application of the principle of justice between the interests of creditors and debtors is not fully realized.

Based on this analysis, a reformulation of the concept of simple proof is needed to provide normative clarity that can be measured and applied consistently.¹⁵ Simple proof should be understood as a process that does not require complex examinations of the amount or validity of the debt – it is sufficient to establish the existence of two creditors and formal evidence of a due and payable debt.

Strengthening the principle of justice may also be achieved through the issuance of judicial guidelines or more specific parameters for assessing simple proof.¹⁶ This is essential to prevent decision-making disparities and to avoid the arbitrary rejection of bankruptcy petitions by judges without clear legal justification.

¹⁴ Yuhelson Yuhelson, “Rekonstruksi Pembuktian Secara Sumir Dalam Hukum Acara Kepailitan Terkait Dengan Bukti Elektronik Di Indonesia,” *Jurnal Pendidikan Tambusai* 6, no. 2 (2022): 16404–17, <https://doi.org/10.31004/jptam.v6i2.5079>.

¹⁵ Mirza Ajeng Thiasari, “Reformulasi Pengaturan Pembuktian Sederhana Dalam UU No. 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang,” 2023, <https://dspace.uui.ac.id/handle/123456789/44874>.

¹⁶ Thiasari.

Furthermore, the balance between the principle of going concern and creditor protection should be interpreted flexibly, such that the debtor's solvency is not treated as the sole determining factor in adjudicating bankruptcy cases.

2. The Principle of Justice: Between the Protection of Creditors and Debtors

The principle of justice is a fundamental tenet that demands a balanced legal protection for both parties—creditors and debtors—in bankruptcy proceedings. As articulated by Satjipto Rahardjo, law should not function merely as a formal procedural instrument, but must be capable of delivering substantive justice that resonates with the realities of society.¹⁷ This implies that, in the application of simple proof, judges are obliged to consider the actual losses suffered by creditors without disregarding the debtor's right to reasonably sustain their business operations.

In *Legal Philosophy* (1950), Gustav Radbruch posits that one of the highest values in law is justice (*Gerechtigkeit*), which must not be subordinated to mere legal certainty (*Rechtssicherheit*). Justice must take precedence in situations where there is a conflict between formal procedures and the need to protect parties who have suffered real harm.¹⁸ In the context of simple proof, this underscores the imperative for judges not to interpret formal requirements rigidly, but to also account for the values of balance and the protection of both parties' rights.

Similarly, John Rawls, through his theory of *Justice as Fairness*, emphasizes the *principle of equal liberty* and the *difference principle*, in which protecting the disadvantaged must take precedence to ensure that the distribution of justice does not result in greater harm.¹⁹ Accordingly, justice in bankruptcy cases should not be measured solely by the existence of two creditors and due debts, but also by ensuring that no party—especially minor creditors—has their rights neglected due to judicial misinterpretation of the “simple proof” standard.

By integrating the views of Rahardjo, Radbruch, and Rawls, the notion of simple proof in Indonesia should ideally aim to uphold a balance of rights—meaning that bankruptcy petitions should not be dismissed solely based on the debtor's ongoing business continuity, but should also take into account the actual financial harm experienced by

¹⁷ Umar Sholahudin, “Hukum Dan Keadilan Masyarakat (Analisis Sosiologi Hukum Terhadap Kasus Hukum Masyarakat Miskin ‘Asyani’ Di Kabupaten Situbondo),” *DIMENSI-Journal of Sociology* 9, no. 1 (2016): 31–45, <https://doi.org/10.21107/djs.v9i1.3736>.

¹⁸ Emil Lask et al., *The Legal Philosophies of Lask, Radbruch, and Dabin* (Harvard: Harvard University Press, 1950).

¹⁹ Andra Triyudiana and Putri Neneng, “Penerapan Prinsip Keadilan Sebagai Fairness Menurut John Rawls Di Indonesia Sebagai Perwujudan Dari Pancasila,” *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 2, no. 1 (2024): 1–25, <https://journal.forikami.com/index.php/dassollen/article/view/528>.

creditors. The parameters of simple proof must be established to maintain procedural consistency while retaining the flexibility to assess substantive justice, thereby realizing equitable legal protection.

The principle of justice must be upheld in bankruptcy proceedings. In fact, the principle of justice is not only relevant in bankruptcy but, in legal hierarchy, principles hold a higher normative status than jurisprudence or prior judicial decisions. In this regard, justice does not mean granting greater protection to one party over the other, but rather accommodating the rights of both parties proportionally.²⁰ While the debtor's interest in sustaining business operations is important, the creditor's right to debt repayment must likewise be protected.

In the case of PT Bhadra Samudra Indah, the panel of judges prioritized the debtor's business viability over the actual losses suffered by the creditor due to default. This approach risks weakening the creditor's legal position and bargaining power in claiming their rights.

Therefore, it is crucial for courts to go beyond merely assessing the nominal value of debts or the continuity of the debtor's business. Substantive justice must also be considered—especially when the creditor has fulfilled the burden of proof. Within this framework, the principle of justice should guide judges not only in determining whether formal requirements have been met, but also in thoroughly evaluating the good faith and evidentiary support presented by both parties.

The consequence of rejecting a bankruptcy petition despite meeting the formal elements indicates that the court places the substance of proof above procedural formality. While this approach may be understandable in efforts to prevent the misuse of bankruptcy as a coercive tool against debtors with ongoing businesses (*going concern*),²¹ it simultaneously sacrifices the legal interests of creditors who have suffered economic harm.

One of the primary functions of bankruptcy law is to ensure legal certainty in resolving debt disputes, including providing creditors with lawful access to recover legitimate claims.²² When a bankruptcy petition is rejected on the grounds that the claim amount is disputed—even though supporting evidence has been submitted—it may constitute a form of legal protection imbalance.

²⁰ Niru Anita Sinaga, "Perspektif Force Majeure Dan Rebus Sic Stantibus Dalam Sistem Hukum Indonesia," *Jurnal Ilmiah Hukum Dirgantara* 11, no. 1 (2020): 1–27, <https://doi.org/10.35968/jh.v11i1.648>.

²¹ Lask et al., *The Legal Philosophies of Lask, Radbruch, and Dabin*.

²² Hari Sutra Disemadi and Danial Gomes, "Perlindungan Hukum Kreditur Konkuren Dalam Perspektif Hukum Kepailitan Di Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 1 (2021): 123–34, <https://doi.org/10.23887/jpku.v9i1.31436>.

Such rulings also demonstrate the existence of a double standard in the application of the simple proof principle, which should ideally be objective. When judges place more weight on substantive matters than on formal ones, the concept of “simple” becomes obscured, creating the potential for legal uncertainty and inconsistency in judicial decisions.

3. Typology of Disparities in Bankruptcy Decisions in Indonesia

In the practice of commercial courts in Indonesia, disparities or inconsistencies in bankruptcy decisions have become one of the main sources of legal uncertainty, potentially disadvantaging parties, particularly creditors. These disparities arise due to the absence of a standardized parameter for “simple proof” in Law Number 37 of 2004. As a result, judges tend to apply subjective interpretations based on the circumstances of each case, leading to divergent rulings in cases with similar dispute patterns.

The typology of disparities in bankruptcy rulings can generally be classified into three categories:

- a. Normative disparity, referring to differences in interpretation caused by the ambiguity of legal norms. For instance, Article 8 paragraph (4) of Law No. 37/2004 mentions “simple proof” without providing objective criteria, resulting in multiple interpretations regarding the fulfillment of bankruptcy elements.
- b. Juridical disparity, referring to differences in legal application by judges despite the clarity of the norm, influenced by the individual perspectives or considerations of the judges. For example, one judge may scrutinize the nominal value of the debt as part of the simple proof requirement, while another may disregard the nominal amount and focus solely on the existence of due debt and two or more creditors.
- c. Jurisprudential disparity, referring to inconsistencies in rulings at the Supreme Court level, which should serve as precedent. In some cases, the Supreme Court has confirmed that meeting formal requirements is sufficient to declare bankruptcy, while in others it demands substantive proof regarding the amount of debt and the debtor’s ability to pay.

Clearly identifying this typology is essential as a foundation for formulating measurable and consistent parameters for simple proof. This will enable judges to maintain a balance between legal certainty, the principle of justice, and the protection of creditor and debtor rights—without creating multiple interpretations. This research

specifically aims to map these disparities and propose a more equitable formulation of simple proof to be applied in the future.²³

Therefore, the researcher argues for the urgent need to reformulate the parameters for simple proof into a measurable, consistent standard that can serve as a reference for all commercial court judges in Indonesia. These parameters could be established, for example, through a Supreme Court Circular Letter (*Surat Edaran Mahkamah Agung* or SEMA) or a limited revision of Law No. 37 of 2004 to prevent recurring misinterpretations and significantly reduce decision disparities.

Below is a comparative table of bankruptcy rulings from several commercial courts, designed to help readers visualize the inconsistency patterns more concretely. Through a systematic typological mapping of disparities, this study aims to contribute to the development of a concept of simple proof that goes beyond formalism, encompassing substantive justice and balanced protection of parties' rights.

Decision Number	Interpretation of Simple Proof	Outcome
23/2022 (Jakarta)	Requires clarity of debt nominal value	Rejected
15/2021 (Surabaya)	Formal: two creditors and matured debts	Granted
12/2021 (Medan)	Substantive: debt value examined in dispute	Rejected

The table above illustrates real examples of disparities in the application of simple proof in bankruptcy cases in Indonesia.

In Decision No. 23/Pdt.Sus-Pailit/2022 from the Commercial Court of Central Jakarta, the judge interpreted simple proof as requiring clarity on the nominal value of the debt, despite other formal conditions—such as the presence of two creditors and a due debt—already being fulfilled. As a result, the bankruptcy petition was rejected because the nominal amount was deemed uncertain.²⁴

In contrast, in Decision No. 15/Pdt.Sus-Pailit/2021 from the Commercial Court of Surabaya, the judge adhered strictly to the formal requirements as outlined in Article 8 paragraph (4) of the Bankruptcy Law—i.e., the presence of two creditors and a due and

²³ Aman Wibawa Ginting, Elisatris Gultom, and Anita Afriana, "Analisis Disparitas Putusan Pengadilan Niaga Dan Mahkamah Agung Terkait Kepailitan Terhadap Yayasan (Analisis Putusan Mahkamah Agung Nomor: 1262 K/Pdt. Sus-Pailit/2022)," *Innovative: Journal Of Social Science Research* 3, no. 3 (2023): 2822–31, <https://j-innovative.org/index.php/Innovative/article/view/1992>.

²⁴ Putusan Pengadilan Niaga Jakarta Pusat No. 23/Pdt.Sus-Pailit/2022

payable debt—without questioning the specific amount of the debt. Consequently, the petition was granted.²⁵

A different approach was taken in Decision No. 12/Pdt.Sus-Pailit/2021 from the Commercial Court of Medan, where the judge applied a substantive interpretation of simple proof, involving a deeper examination of the disputed debt value and the debtor's objections. Due to the existence of a dispute over the debt amount, the petition was ultimately rejected.²⁶

These varying interpretations reflect normative disparity (due to the unclear definition of “simple”), juridical disparity (as judges differ in their assessment of the bankruptcy elements), and jurisprudential disparity (as the Supreme Court has not provided consistent guidance on the parameters). Such inconsistencies lead to legal uncertainty and open the door to potential moral hazard on the part of both creditors and debtors.

By presenting this table, readers are expected to grasp the urgency of establishing clearer, more objective, and standardized parameters for simple proof—so that the principle of justice in bankruptcy proceedings can be applied fairly and consistently across all jurisdictions in Indonesia.

CONCLUSION

The judges' considerations in this case emphasized that the requirement of “simple proof” should not be assessed solely based on the presence of two creditors and the existence of due debt. It must also take into account the certainty of the debt amount and the legal basis for the payment obligation. The judges found that there were still disagreements regarding the nominal value of the debt and the legal grounds for the debtor's obligation, thereby concluding that the case did not yet meet the elements of simple proof. Consequently, the bankruptcy petition was rejected, despite the formal existence of two creditors and evidence of matured debt. This approach demonstrates that the judges interpreted the principle of simple proof substantively rather than merely formally.

A bankruptcy petition should deliver justice through the application of both the principle of justice and the principle of balance between the rights of creditors and debtors. In the context of simple proof, courts should ideally not limit themselves to formal requirements, but also consider good faith and the protection of both parties' rights. A fair petition must ensure that creditors are not disadvantaged by a narrow interpretation of debt evidence,

²⁵ Putusan Pengadilan Niaga Surabaya No. 15/Pdt.Sus-Pailit/2021

²⁶ Putusan Pengadilan Niaga Medan No. 12/Pdt.Sus-Pailit/2021

while debtors are not declared bankrupt solely due to the existence of a certain nominal debt. The principles of justice and balance require judges to provide proportional protection without compromising legal certainty and the legitimate economic rights of creditors. Therefore, the application of simple proof must be directed at preventing abuse of legal procedures by either party and ensuring comprehensive substantive justice.

There is a need to reformulate or revise Article 8 paragraph (4) of Law No. 37 of 2004 to provide a more explicit definition of the elements of “simple proof,” in order to minimize excessive judicial interpretation. The Supreme Court should issue technical guidelines or a Circular Letter (Surat Edaran) offering more detailed instructions for judges in assessing bankruptcy petitions, including objective parameters of simple proof that align with the principle of legal balance. Judges handling bankruptcy cases must prioritize the principle of judicial prudence, along with a firm commitment to substantive justice. Legal protection for debtors acting in good faith is indeed essential, but it must not come at the expense of the legitimate rights of harmed creditors. For legal scholars and practitioners, it is crucial to continue conducting critical studies and formulating normative recommendations that can serve as references for the development of commercial procedural law, so that the Indonesian bankruptcy system may operate in a fair, balanced, and transparent manner.

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