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# The Curator's Authority over Bankruptcy Assets Seized and Forfeited by the State: An Analysis of Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024

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*Original Article*

**Abstract**

The intersection of general bankruptcy attachment, criminal seizure, and asset forfeiture raises questions about the authority of court-appointed bankruptcy administrators (curators) in Indonesia. This study examines the limits of that authority and the grounds for denying extraordinary reconsideration in Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024. It employs doctrinal legal research using statutory, case law, and conceptual approaches, systematic interpretation, and deductive reasoning. The judgment establishes that the Court upheld the seizure in connection with the enforcement of a final and binding criminal judgment under Articles 39(2) and 46(2) of the former Criminal Procedure Code. Six evidentiary documents were found to lack decisive relevance, and the manifest-error allegation exceeded the statutory 30-day filing period. General bankruptcy attachment neither automatically invalidates lawful criminal seizure nor reverses forfeiture; documenting disputed assets differs from possessing or liquidating them. The study develops a four-layer analytical framework integrating asset status, seizure and forfeiture legality, the scope of curator authority, and procedural remedies. The 2025 Criminal Procedure Code informs prospective analysis without retroactively governing the 2024 case.

**Keywords**: *Bankruptcy Estate, Curator, Criminal Seizure, Extraordinary Reconsideration, Legal Certainty*

**Abstrak**

Pertautan sita umum kepailitan, penyitaan, dan perampasan pidana menimbulkan persoalan mengenai batas kewenangan kurator. Penelitian ini menganalisis batas kewenangan tersebut dan dasar penolakan peninjauan kembali dalam Putusan Mahkamah Agung Nomor 68 PK/Pdt.Sus-Pailit/2024. Penelitian hukum normatif menggunakan pendekatan perundang-undangan, kasus, dan konseptual, dengan penafsiran sistematis serta penalaran deduktif. Analisis salinan lengkap putusan menunjukkan bahwa Mahkamah Agung menilai penyitaan sah dalam rangka pelaksanaan putusan pidana berkekuatan hukum tetap berdasarkan Pasal 39 ayat (2) dan Pasal 46 ayat (2) KUHAP lama. Enam bukti surat dinilai tidak bersifat menentukan, sedangkan dalil kekeliruan nyata diajukan melampaui tenggang 30 hari. Sita umum tidak otomatis meniadakan penyitaan yang sah atau membatalkan perampasan; pencatatan aset yang disengketakan berbeda dari penguasaan dan pemberesannya. Kontribusi penelitian berupa kerangka pengujian empat lapis yang mengintegrasikan status aset, legalitas penyitaan dan perampasan, ruang tindakan kurator, serta mekanisme koreksi prosedural. KUHAP 2025 menjadi dasar analisis prospektif tanpa berlaku surut terhadap perkara tahun 2024.

**Kata kunci**: *Harta Pailit, Kurator, Penyitaan Pidana, Peninjauan Kembali, Kepastian Hukum*

## 1. INTRODUCTION

Bankruptcy provides a collective mechanism for resolving a debtor's obligations through general attachment (sita umum) of property belonging to the bankruptcy estate (boedel pailit).[1] It prevents individual creditors from competing to seize assets and subjects payment to the statutory order of priority. The principles of paritas creditorum and pari passu pro rata parte do not imply identical distributions to all creditors regardless of security interests or statutory preferences. Rather, collective insolvency administration depends on identifying distributable assets, determining creditors' respective legal positions, and establishing the authority of the persons responsible for administering the estate.[2]

Article 1(1), Article 21, Article 24(1), Article 16(1), and Article 69(1) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt-Payment Obligations (the Bankruptcy Law, also known as UU Kepailitan dan PKPU) establish that the formation of the bankruptcy estate and the transfer of administrative authority do not transfer ownership to the court-appointed curator (kurator).[3] Article 31 stays individual enforcement against the debtor's assets and provides for the lifting of existing attachments. By contrast, Article 39(2) of the 1981 Criminal Procedure Code (KUHAP) expressly permits criminal seizure of property subject to civil or bankruptcy attachment if the property falls within the categories specified in Article 39(1). The tension between these provisions concerns the scope of authority over the property, rather than merely the chronological priority of competing attachments.[4]

This tension is illustrated by the dispute involving the curators of PT Sunprima Nusantara Pembiayaan (PT SNP, in bankruptcy). The full text of Indonesian Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024 records a claim for the return of IDR 50,852,567,604.00, which, according to the claimants' requested relief, originated from accounts held in PT SNP's name and had been seized and forfeited to the state. The Commercial Court at the Central Jakarta District Court dismissed the ancillary bankruptcy action (gugatan lain-lain) on September 13, 2023. The Supreme Court subsequently denied cassation on January 30, 2024, and extraordinary reconsideration (peninjauan kembali, or PK) on November 28, 2024. The reconsideration panel found that the seizure for the state was lawful in connection with enforcement of a final and binding criminal judgment. The case therefore concerns not only the preservation of evidence during an investigation but also the consequences of forfeiture for the assets available to satisfy creditors' claims. The amount specified is the amount claimed by

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1 Gracia Putri, Jessica Fionita, and Juan Matheus, "Lelang Eksekusi Kepailitan Atas Tanah Dan Bangunan Yang Dimiliki Bersama Oleh Pihak Ketiga Dan Debitur Pailit," *Jurnal Supremasi* 14, no. 2 (September 20, 2024): 1–15, https://doi.org/10.35457/supremasi.v14i2.3810.

2 M. Hadi Shubhan, *Hukum Kepailitan: Prinsip, Norma, dan Praktik di Peradilan* (Jakarta: Kencana, 2015), https://ailisx.lib.unair.ac.id/opac/detail-opac?id=79c971044fc338afb5842e624ab1ceb2935615d2. Munir Fuady, *Hukum Pailit dalam Teori dan Praktek* (Bandung: Citra Aditya Bakti, 2014), https://www.opac.lib.fh.usk.ac.id/index.php?id=1443&p=show_detail.

3 Kiemas, Andre, Juan Matheus, and Ariawan Gunadi. "Redefining Bankruptcy Law: Incorporating the Principle of Business Continuity for Fair Debt Resolution." *Rechtsidee* 11, no. 2 (December 6, 2023): 1–18. https://doi.org/10.21070/jihr.v12i2.996.

4 Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 1 angka 1, 16, 21, 24, 31, dan 69, https://jdih.kemenkeu.go.id/api/download/fulltext/2004/37TAHUN2004UU.htm. Republik Indonesia, Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana, Pasal 38–39, https://bphn.go.id/data/documents/81uu008.pdf.

the curators, not a separate finding by the reconsideration panel regarding ownership or the realizable value of the estate.[5]

Existing scholarship reflects distinct approaches to competing attachments. Isfardiyana treats the satisfaction of creditors' claims as a reason to prioritize general bankruptcy attachment. Harir and colleagues, in a doctrinal study, identify a normative conflict between Article 31(2) of the Bankruptcy Law and Article 39(2) of the 1981 Criminal Procedure Code and propose clarifying the priority of general bankruptcy attachment. These studies provide a foundation for evaluating creditors' rights. A general rule of priority, however, does not itself establish whether a particular asset is connected to a criminal offense or whether a procedural mechanism can release that asset from seizure.[6]

Adhia, Mahmudah, and Sismarwoto examine the PT Aliga International Pratama dispute from a doctrinal perspective, relating curator responsibility to criminal jurisdiction. Tambunan adopts a case law approach to illustrate losses creditors may experience when investigators' and curators' powers overlap. Andrian considers disputes over estate liquidation in light of the protection of creditors and victims. Together, these perspectives indicate that the curator's statutory authority can remain relevant even where its exercise over a specific asset is restricted.[7]

With respect to remedies, Nurhakim and Fakhriah examine the possibility of a curator challenging seizure through Indonesian pretrial review (praperadilan), whereas Oktavira and Muryanto focus on the enforcement rights of creditors holding registered land security interests (Hak Tanggungan). Lingga, Maryano, and Mustofa consider the consequences of competing attachments for unsecured, non-preferred creditors. These studies identify several potential avenues of protection, but access to each depends on standing, the subject of the application, the procedural stage, and the applicable law.[8]

Recent work by Salim, Sunarmi, and Siagian treats competing attachments in money laundering cases as a problem that cannot adequately be resolved by mechanically applying rules of legal precedence. Their analysis proposes distinguishing

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5 Mahkamah Agung Republik Indonesia, Putusan Nomor 46 K/Pdt.Sus-Pailit/2024, 30 Januari 2024, https://putusan3.mahkamahagung.go.id/direktori/putusan/zaeecca6aeb8bbba83b9313533373536.html. Mahkamah Agung Republik Indonesia, Putusan Nomor 68 PK/Pdt.Sus-Pailit/2024, 28 November 2024, 3–6, 10–11, https://putusan3.mahkamahagung.go.id/direktori/putusan/zaf023de09b9f300c08a313030383230.html.

6 Siti Hapsah Isfardiyana, "Sita Umum Kepailitan Mendahului Sita Pidana dalam Pemberesan Harta Pailit," *Padjadjaran Jurnal Ilmu Hukum* 3, no. 3 (2016): 628–650, https://jurnal.unpad.ac.id/pjih/article/view/7177. Moh Harir, Soegianto Soegianto, Zaenal Arifin, Kukuh Sudarmanto, dan Miftah Arifin, "Konflik Norma (Antinomy Normen) Sita Umum dengan Sita Pidana dalam Pemberesan Harta Pailit," *Jurnal USM Law Review* 8, no. 2 (2025): 1107–1125, https://doi.org/10.26623/julr.v8i2.11384.

7 Rahmawati Yurist Adhia, Siti Mahmudah, dan Edy Sismarwoto, "Tanggung Jawab Kurator dalam Sita Boedel Pailit oleh Negara (Kejaksaan) (Kasus PT Aliga International Pratama Nomor 156K/Pdt.Sus-Pailit/2015)," *Diponegoro Law Journal* 10, no. 1 (2021): 218–234, https://doi.org/10.14710/dlj.2021.29876. Oktaviani F. Tambunan, "Penyitaan Benda dalam Kepailitan oleh Kurator dan Penyitaan Benda oleh Kepolisian dalam Perkara Pidana," *Verstek* 7, no. 2 (2019), https://jurnal.uns.ac.id/verstek/article/view/34303/0. Andrian, "Sengketa Kewenangan dalam Proses Likuidasi Boedel Pailit antara Kurator dengan Kejaksaan Republik Indonesia," *JUSTISI* 9, no. 3 (2023): 389–401, https://doi.org/10.33506/jurnaljustisi.v9i3.2509.

8 Lukman Ilman Nurhakim dan Efa Laela Fakhriah, "Hak Kurator untuk Mengajukan Praperadilan terhadap Boedel Kepailitan yang Diletakkan Sita Pidana," *Kertha Patrika* 42, no. 3 (2020): 315–332, https://doi.org/10.24843/KP.2020.v42.i03.p06. Bernadetha Aurelia Oktavira dan Yudho Taruno Muryanto, "Perlindungan Hukum bagi Kreditor Pemegang Hak Tanggungan dalam Eksekusi Harta (Boedel) Pailit terhadap Sita Perkara Pidana," *Jurnal Privat Law* 8, no. 1 (2020), https://jurnal.uns.ac.id/privatlaw/article/view/40368. Win Salamsyah Lingga, Maryano, dan Marni Emmy Mustofa, "Perlindungan Hukum terhadap Kreditur Konkuren atas Harta Pailit Debitor yang Disita Pidana," *Cendekia: Jurnal Penelitian dan Pengkajian Ilmiah* 2, no. 6 (2025): 898–911, https://doi.org/10.62335/cendekia.v2i6.1437.

assets according to their origin and coordinating the responsible institutions. The present study shares that functional orientation but focuses specifically on the distinction between administrative and dispositive acts of curators, as well as the evidentiary requirements and filing periods for extraordinary reconsideration. The contribution lies not in claiming that functional analysis is unprecedented, but in connecting the legal status of assets to access to recovery through an appropriate procedural mechanism.[9]

The research gap concerns the relationship between the legal status of assets, the transition from seizure to forfeiture under a criminal judgment, and the restricted scope of extraordinary reconsideration. Scholarship on attachment priority, creditor protection, and asset classification does not fully explain how these questions interact with the decisive character of newly discovered evidence (novum) and the statutory filing periods in this case. The study's contribution is a four-layer analytical framework addressing asset status and rights, the legal basis and purpose of seizure and forfeiture, the scope of permissible curator actions, and procedural remedies. The framework is a doctrinal synthesis informed by the panel's reasoning, rather than an empirical generalization or a claim of unprecedented originality.

The study addresses two questions. First, what are the limits of a curator's authority over bankruptcy assets subject to criminal seizure and forfeiture under the law applicable to the case and under subsequent criminal procedure reforms? Second, how does Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024 explain the relationship between the legality of seizure and forfeiture, the quality of newly discovered evidence, and the time limits for extraordinary reconsideration? The objective is to articulate the relationship between substantive curator authority and procedural conditions for asset recovery through analysis of legislation and the judgment.

## 2. RESEARCH METHODOLOGY

This study employs doctrinal legal research with statutory, case law, and conceptual approaches. The statutory analysis examines the formation of the bankruptcy estate, the curator's duties, criminal seizure, the status of evidence following judgment, and extraordinary reconsideration. The case law analysis examines the complete 12-page text of Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024, distinguishing the parties' identities, requested relief, preliminary objections, procedural history, judicial reasoning, and disposition. Primary legal materials comprise the Bankruptcy Law, the 1981 and 2025 Criminal Procedure Codes, financial-sector amendments relevant to bankruptcy legislation, the reconsideration judgment, and information on the related cassation decision. Secondary materials consist of academic books and journal articles located through publishers, journal websites, and institutional catalogs. The conceptual approach distinguishes ownership, possession, and authority to liquidate property.[10]

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[9] Henny Ocktavia Salim, Sunarmi, dan Putri Rumondang Siagian, "Pemberesan Harta Pailit pada Perusahaan yang Terlibat Kasus Tindak Pidana Pencucian Uang," *Jurnal Hukum Lex Generalis* 7, no. 7 (2026), https://doi.org/10.56370/jhlg.v7i7.4145.

[10] Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), https://eprints.unram.ac.id/20305/.

The analysis uses grammatical interpretation of the conditions for seizure and extraordinary reconsideration, systemic interpretation of the relationship between bankruptcy and criminal procedure, and purposive interpretation in light of collective debt resolution and criminal enforcement. Deductive reasoning connects the applicable provisions to the panel's reasoning and develops categories for assessing curator actions. The interval between cassation and the filing of extraordinary reconsideration is calculated from dates recorded in the judgment. The underlying criminal judgment, seizure records, six evidentiary exhibits (PK.1.a through PK.2.c), and complete first-instance and cassation judgments were not directly examined; their contents are not reconstructed beyond the panel's account. Conclusions regarding ownership of individual accounts, independent verification of substantive seizure legality, and the commencement of the novum filing period are accordingly limited by the primary materials available. The legal materials were updated through November 19, 2026.

## 3. RESULTS AND DISCUSSION

### 3.1. Curator Authority and the Legal Consequences of Criminal Seizure and Forfeiture

A curator's authority derives from judicial appointment and statutory mandate, not from personal ownership of property under administration. Article 24(1) of the Bankruptcy Law deprives the debtor of the right to possess and administer property included in the bankruptcy estate; it does not extinguish all of the debtor's civil capacity. Article 16(1) authorizes administration and liquidation from the pronouncement of the bankruptcy judgment even where cassation or extraordinary reconsideration is sought. Article 69(1) defines the curator's duties as administration and liquidation. The exercise of those powers remains subject to bankruptcy requirements, supervision by the supervisory judge, and legal restrictions attached to particular property.[11]

General bankruptcy attachment brings together property legally attributable to the debtor for collective debt resolution. Article 21 encompasses assets held when bankruptcy is declared and property acquired during bankruptcy, subject to statutory exclusions. Recording an asset in an inventory does not constitute conclusive proof of ownership. Third-party property, funds merely held by the debtor, and assets subject to special rights require separate legal classification. Inventorying property is thus distinct from determining the value ultimately available for distribution to creditors.[12]

Article 31 of the Bankruptcy Law stays enforcement against the debtor's assets and provides for the termination of existing attachments. Within the collective insolvency process, its function is to prevent separate enforcement that would undermine the statutory distribution scheme. Article 39(2) of the 1981 Criminal Procedure Code, however, preserves the possibility of criminal seizure of property already subject to bankruptcy attachment. A systemic interpretation reconciles these

[11] Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 16, 24, dan 69. Shubhan, *Hukum Kepailitan*.

[12] Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 21–22. Fuady, *Hukum Pailit dalam Teori dan Praktek*.

provisions without treating all forms of seizure as automatically invalid upon bankruptcy. Sumakud and colleagues identify these provisions as an intersection between the two regimes. The scope of each specific rule therefore depends on the property, purpose, and legal action it governs, not on an assumption that public law invariably supersedes private law.[13]

The legality of seizing property within the bankruptcy estate remains contingent on Article 39(1) of the 1981 Criminal Procedure Code, which identifies the categories of property sufficiently connected to criminal offenses. Judicial authorization or approval under Article 38 is a procedural requirement distinct from the substantive nexus between the property and the offense. Suspected criminal conduct by corporate officers does not automatically render all corporate assets eligible for seizure as evidence. Harahap's treatment of investigation and prosecution provides the doctrinal context for coercive procedural measures, but a case-specific assessment depends on the applicable criminal procedure rules and the seizure records.[14]

Seizure and forfeiture have different legal effects. Seizure restricts possession for purposes of criminal proceedings, whereas forfeiture to the state determines the disposition of property pursuant to the applicable legal basis and judgment or other special mechanism. Article 46(1) of the 1981 Criminal Procedure Code provides for the return of property when the grounds for retaining it cease to exist, subject to specified exceptions. Article 46(2) provides for disposition in accordance with the judgment, including exceptions to return where property is forfeited to the state, destroyed, rendered unusable, or required as evidence in another proceeding. The cessation of evidentiary necessity therefore does not invariably result in return to the curator. Tantimin's discussion of non-conviction-based asset forfeiture illuminates the distinction between different asset recovery mechanisms, but the PT SNP case concerns enforcement of a final and binding criminal judgment, as expressly stated by the reconsideration panel.[15]

The legal effects of curator actions vary with their nature. Administrative measures, such as tracing ownership documents, recording disputed assets, and verifying creditors' claims, fall within estate administration to the extent that they do not violate access restrictions or interfere with criminal proceedings. Dispositive or possessory acts, including taking control of funds, transferring property, conducting auctions, and distributing proceeds, cannot be undertaken unilaterally in relation to assets subject to lawful seizure. During seizure, restrictions concern control of the asset and the purposes of the criminal proceedings. Once lawful forfeiture to the state has been ordered and executed, the consequence is no longer merely a postponement of liquidation: the asset is unavailable for liquidation by the curator while the legal

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[13] Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 31. Republik Indonesia, Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana, Pasal 39 ayat (2). Deanne Lauretta Sumakud, Rr. Ani Wijayati, dan Jimmy Simanjuntak, "Analisis Yuridis Kedudukan Sita Umum yang Dilakukan Kurator terhadap Sita Pidana dalam Pemberesan Boedel Pailit," *Jurnal Hukum to-ra* 10, Special Issue (2024): 125–135, https://ejournal.fhuki.id/index.php/tora/article/view/467.

[14] Republik Indonesia, Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana, Pasal 38–39. M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP: Penyidikan dan Penuntutan* (Edisi kedua. Jakarta: Sinar Grafika, 2014), https://opac.lib.fh.usk.ac.id/index.php?id=2124&p=show_detail.

[15] Republik Indonesia, Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana, Pasal 45–46. Tantimin, "Penyitaan Hasil Korupsi Melalui Non-Conviction Based Asset Forfeiture sebagai Upaya Pengembalian Kerugian Negara," *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 85–102, https://doi.org/10.14710/jphi.v5i1.85-102.

basis for forfeiture remains in effect. Historical inventory entries and estate claims do not alter that status. Conversely, property lawfully returned to the bankrupt debtor falls within the curator's administration under the Bankruptcy Law.[16]

Creditors' rights are likewise differentiated. Creditors holding proprietary security interests possess enforcement rights subject to bankruptcy restrictions and procedures, including Articles 55–59 of the Bankruptcy Law. Unsecured, non-preferred creditors depend on the assets remaining after distributions according to statutory priority. Sidabariba treats the enforcement of preferential rights and protection of the parties as important issues in secured lending, while Oktavira and Muryanto examine the tension between secured creditors' enforcement rights and criminal seizure. Seizure may impede realization of a claim without extinguishing an acknowledged debt. Lawful forfeiture may reduce the distributable estate, but a reduction in that estate does not itself discharge all of the debtor's obligations.[17]

### 3.2. The Supreme Court's Ratio Decidendi and the Limits of Procedural Relief

Under a supervisory judge's order dated October 26, 2018, Irfan Aghasar and Rio Harika acted as the curators of PT SNP (in bankruptcy). They were the plaintiffs in the ancillary bankruptcy action and subsequently the applicants for extraordinary reconsideration; the police and prosecution authorities were the defendants and later the respondents. The other named defendants included the State Seized Property Storage Facility (Rupbasan), the Directorate General of State Assets (DJKN), Bank Panin, and Bank Central Asia. The judgment records that the curators contested the seizure and sought the return of IDR 50,852,567,604.00 for liquidation and distribution. The first defendant objected on the grounds that the dispute belonged within pretrial review rather than the Commercial Court's jurisdiction. The second defendant challenged subject-matter jurisdiction, the identity of the proper party (error in persona), and the clarity of the pleadings (obscuur libel). These objections represent the defendants' positions; they are not findings that the reconsideration panel expressly sustained in its disposition.

The initial requested relief on pages 3–5 identifies nine components of funds held with five banks: BRI, Bank BJB, BNI, Bank Sinarmas, and Bank Mandiri. The nine amounts total IDR 50,852,567,604.32, while the stated claim amounts to IDR 50,852,567,604.00. In the recitation of the reconsideration petition on pages 8–9, only eight components appear: the third Bank Mandiri component, valued at IDR 8,073,426,858.00, is omitted, although the total claim remains unchanged. This is an internal discrepancy in the judgment's reproduction of the requested relief, not a judicial determination of the value forfeited. It illustrates why the amount claimed, the

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[16] Adhia, "Tanggung Jawab Kurator dalam Sita Boedel Pailit oleh". Andrian, "Sengketa Kewenangan dalam Proses Likuidasi Boedel Pailit antara".

[17] Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 55–59. Burhan Sidabariba, *Hak Preference Pemegang Hak Tanggungan: Mengutamakan Perlindungan Hukum Para Pihak* (Jakarta: Papas Sinar Sinanti, 2023), https://opac.dpr.go.id/index.php?id=38593&keywords=&p=show_detail. Oktavira, "Perlindungan Hukum bagi Kreditor Pemegang Hak Tanggungan dalam". Lingga, "Perlindungan Hukum terhadap Kreditur Konkuren atas Harta Pailit".

identification of the assets, and the value legally available to creditors are analytically distinct.

The Commercial Court at the Central Jakarta District Court dismissed the entire action in Decision No. 16/Pdt.Sus-Gugatan Lain-Lain/2023/PN Niaga Jkt.Pst., in conjunction with No. 52/Pdt.Sus-PKPU/2018/PN Niaga Jkt.Pst., dated September 13, 2023, and assessed costs of IDR 5,840,000.00. On January 30, 2024, the Supreme Court denied cassation in Decision No. 46 K/Pdt.Sus-Pailit/2024 and assessed costs of IDR 5,000,000.00. The reconsideration petition and supporting memorandum were registered on August 16, 2024, under Registry Deed No. 27 PK/Pdt.Sus-Pailit/2024/PN.Niaga.Jkt.Pst. The memorandum was served on the respondents on August 22, 2024; no response was submitted. On November 28, 2024, the Supreme Court denied reconsideration and assessed costs of IDR 10,000,000.00. The absence of a response did not establish the grounds for reconsideration by default, because the application remained subject to statutory requirements.[18]

The central reasoning on pages 10–11 establishes three legal propositions. First, the panel examined exhibits PK.1.a, PK.1.b, PK.1.c, PK.2.a, PK.2.b, and PK.2.c, but found their relationship to the legality of seizure and forfeiture in the enforcement of a final and binding criminal judgment unclear. It concluded that the documents were not decisive within the meaning of Article 295(2)(a) of the Bankruptcy Law. Second, the panel found that the respondents' seizure of assets for the state was within their authority under Article 39(2), read in conjunction with Article 46(2), of the Criminal Procedure Code. Third, the objection alleging manifest error was inadmissible because it exceeded the 30-day period prescribed by Article 296(2). These propositions supported the denial of reconsideration but served different functions: evaluating evidentiary relevance, affirming the legal basis for enforcement of the criminal judgment, and defining the temporal limits of review.[19]

Article 295(2)(a) of the Bankruptcy Law limits novum to evidence discovered after judgment that already existed during the original proceedings and is decisive. These requirements are cumulative. The mere fact that evidence was recently discovered is insufficient if it has no capacity to alter the evaluation of the issue decided. Usman and colleagues' study of extraordinary reconsideration in a different bankruptcy case provides context for these restrictions. In PT SNP, the panel focused on the relevance of six documents to the legality of seizure and forfeiture. The judgment neither describes each document's contents nor evaluates when each was discovered. The lack of decisive relevance is therefore an identifiable ground of decision; the contents of the exhibits and additional reasons for their rejection cannot be inferred from the available text. For example, evidence establishing only the debtor's bankruptcy status would not necessarily disprove a criminal nexus to the property or invalidate an operative forfeiture order.[20]

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[18] Mahkamah Agung Republik Indonesia, Putusan Nomor 46 K/Pdt.Sus-Pailit/2024; Mahkamah Agung Republik Indonesia, Putusan Nomor 68 PK/Pdt.Sus-Pailit/2024, 1–10, 11–12.

[19] Mahkamah Agung Republik Indonesia, Putusan Nomor 68 PK/Pdt.Sus-Pailit/2024, 10–11.

[20] Muhammad Zain Usman, Sufirman Rahman, dan Yuli Adha Hamzah, "Analisis terhadap Putusan Mahkamah Agung Republik Indonesia No.8 PK/Pdt.Sus-Pailit/2024," *Legal Dialogica* 1, no. 1 (2025), https://jurnal.fh.umi.ac.id/index.php/legal/article/view/1459. Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 295 ayat (2) huruf a.

Article 295(2)(b) establishes manifest error as a ground distinct from newly discovered evidence. Article 296(1) prescribes a 180-day filing period for a novum claim, whereas Article 296(2) prescribes 30 days for a manifest-error claim. Both periods run from the date the judgment challenged by extraordinary reconsideration becomes final and binding. The judgment records that cassation was pronounced on January 30, 2024, and that reconsideration was registered on August 16, 2024. The elapsed interval is 199 calendar days, numerically exceeding both 30 and 180 days if pronouncement of the cassation judgment is treated as the starting point. The panel expressly applied the 30-day bar only to the manifest-error allegation. It rejected the novum ground because the evidence lacked decisive relevance, without separately addressing the 180-day limit. Furthermore, the procedural recital on page 7 uses the term cassation petition in the context of reconsideration and states that the petition was formally admissible. This textual inconsistency does not alter the disposition but limits conclusions about how the panel determined the commencement of the 180-day period. The elapsed-time calculation is an analytical observation, not an additional ratio decidendi attributed to the Court.[21]

Denial based on the quality of novum differs from the inadmissibility of a manifest-error contention filed out of time. The former concerns the capacity of evidence to undermine the judgment; the latter concerns the temporal limits of an extraordinary remedy. In this case, denial of reconsideration left the cassation and Commercial Court outcomes undisturbed, and the demand for return of the funds was not granted through that proceeding. The panel's reliance on Articles 39(2) and 46(2) of the Criminal Procedure Code concerns two distinct phases: the legality of seizure of property subject to bankruptcy attachment and disposition of the property under a final and binding criminal judgment. Its reasoning does not establish that criminal seizure invariably takes priority over general bankruptcy attachment. Legality remains tied to the property, the competent authority, and the operative basis for forfeiture; independently testing each element requires criminal case records that are not reproduced in full in the reconsideration judgment.[22]

Pretrial review, ancillary bankruptcy litigation, and extraordinary reconsideration differ in their objects and functions. Nurhakim and Fakhriah examine the possibility of a curator challenging seizure through pretrial review, while Adhia and colleagues address the relevance of criminal jurisdiction in another case. In PT SNP, the respondents' jurisdictional objections are recorded in the judgment, but the panel does not announce a general rule of exclusive jurisdiction in its central reasoning. The availability of pretrial review depends on standing, the subject of the challenge, the procedural stage, and the law in force when the action occurred. Once a final and binding criminal judgment is being enforced, a challenge to the original seizure is not equivalent to reversal of its forfeiture disposition. An ancillary bankruptcy action does not by itself invalidate a criminal judgment, and extraordinary reconsideration under

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[21] Republik Indonesia, Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, Pasal 295–297. Mahkamah Agung Republik Indonesia, Putusan Nomor 68 PK/Pdt.Sus-Pailit/2024, 6–7, 11.

[22] Mahkamah Agung Republik Indonesia, Putusan Nomor 68 PK/Pdt.Sus-Pailit/2024, 10–11.

bankruptcy law is directed at the special civil judgment under review rather than constituting a criminal remedy against the forfeiture order.[23]

### 3.3. Criminal Procedure Reform and a Four-Layer Analytical Framework

The 1981 Criminal Procedure Code supplies the historical legal framework for the 2024 case. Law No. 20 of 2025 took effect on January 2, 2026, as Indonesia's new Criminal Procedure Code. Article 361 distinguishes proceedings in which investigation or prosecution was already underway, cases in which neither had commenced, and cases referred to trial according to whether examination had begun. This reform does not change the legal basis of the reconsideration judgment rendered on November 28, 2024. The status of any related criminal proceedings after the effective date of the new Code is not established by the 2024 judgment. The Bankruptcy Law remains the basis for analyzing administration, liquidation, and extraordinary reconsideration; partial amendments to financial-sector bankruptcy and suspension-of-payment applications under Law No. 4 of 2023 lie outside the scope of this study.[24]

Articles 123(1) and 123(2) of the new Criminal Procedure Code retain the requirement to assess the connection between property and a criminal offense even when the property is subject to civil or bankruptcy attachment. Article 123(3) limits the aggregate value of seized property by reference to the losses resulting from the offense, with further regulation contemplated by paragraph (5). Paragraph (4) provides for return by order of the chief judge of the district court when the property does not satisfy paragraph (1). These provisions confirm that the legality of seizure is not determined solely by which authority first gained control of an asset. Their application to specific proceedings remains subject to transitional provisions, the nature of the offense, and any relevant special rules.[25]

Article 130(3) of the new Code expressly incorporates preservation of the economic value of seized property into its management. Articles 131–132 regulate the special handling of certain property that cannot be retained until a judgment becomes final, whereas Articles 133–135 address return and applicable exceptions according to the procedural or adjudicated status of the case. These provisions do not confer auction authority on a bankruptcy curator over property subject to criminal seizure. They nevertheless distinguish preservation of asset value and determination of the person entitled to receive property from the enforcement and liquidation of the bankruptcy estate.[26]

The four-layer framework connects the scope of substantive authority with access to procedural remedies. It extends the discussion of attachment priority developed by Isfardiyana and Harir and colleagues and engages with Salim and

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[23] Nurhakim, "Hak Kurator untuk Mengajukan Praperadilan terhadap Boedel Kepailitan". Adhia, "Tanggung Jawab Kurator dalam Sita Boedel Pailit oleh".

[24] Republik Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, Pasal 361 dan 369, https://www.peraturan.go.id/files/uu-no-20-tahun-2025.pdf. Republik Indonesia, Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan, https://peraturan.bpk.go.id/Details/240203.

[25] Republik Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, Pasal 123.

[26] Republik Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, Pasal 130–135.

colleagues' approach to classifying assets according to their origin. The PT SNP judgment illustrates the additional significance of distinguishing procedural phases: the legality of seizure during criminal proceedings is not identical to the legality of forfeiture in execution of a criminal judgment, and denial of extraordinary reconsideration can rest on the quality of evidence and statutory filing periods. The analysis does not turn on a single classification of all assets but on the legal status of the property, the basis of criminal enforcement, curator authority, and the requirements of procedural law.[27]

**Table 1.** *Four-Layer Framework for Criminal Seizure and Forfeiture of Bankruptcy Assets*

| Analytical layer | Indicators and legal basis | Analytical consequences |
|---|---|---|
| 1. Asset status | Asset identity, ownership, third-party rights, and security interests; Articles 21–24 of the Bankruptcy Law. | Distinguishes estate claims from assets available for liquidation. |
| 2. Legality of seizure and forfeiture | Nexus to the offense, authorization, purpose of seizure, and criminal disposition; Articles 38–39 and 46 of the 1981 Code or Articles 119–123 and 130–135 of the 2025 Code. | Seizure restricts possession; return or forfeiture determines asset availability according to its legal basis. |
| 3. Scope of curator authority | Administration, inventorying, preservation of rights, and power to transfer assets; Articles 16, 24, and 69 of the Bankruptcy Law. | Inventorying is distinct from possession or auction; lawfully forfeited property is unavailable while the forfeiture remains operative. |
| 4. Procedural remedies | Jurisdiction, standing, evidence, procedural stage, grounds and filing periods for extraordinary reconsideration; Articles 295–297 of the Bankruptcy Law. | Decisive relevance of novum and filing periods determine the scope of review; denial of reconsideration does not establish universal attachment priority. |

*Source*: doctrinal synthesis based on the Bankruptcy Law, the 1981 and 2025 Criminal Procedure Codes, and Supreme Court Decision No. 68 PK/Pdt.Sus-Pailit/2024.

Applied to PT SNP, the first layer identifies the funds claimed as bankruptcy property without equating the name on the bank accounts with definitive proof of ownership. The second layer reflects the reconsideration panel's finding that seizure and forfeiture were connected to enforcement of a final and binding criminal judgment. The third layer explains why the claim for return of the funds for liquidation was denied: the curator retains a general statutory mandate, but lawfully forfeited property is unavailable for distribution while the forfeiture remains legally operative. The fourth layer identifies two barriers to correction of the judgment: the six documents lacked decisive relevance, and the manifest-error allegation was out of time. Failure to recover the funds thus arose not merely from an asserted priority of criminal seizure, but from the status of forfeiture and the limits of extraordinary reconsideration.

The framework gives operational meaning to legal certainty and the balancing of protected interests. Legal certainty does not entail the categorical supremacy of one

[27] Isfardiyana, "Sita Umum Kepailitan Mendahului Sita Pidana dalam Pemberesan". Harir, "Konflik Norma (Antinomy Normen) Sita Umum dengan Sita". Salim, "Pemberesan Harta Pailit pada Perusahaan yang Terlibat Kasus".

regime; it entails an identifiable basis for each legal action and a defined means of challenging it. Balancing interests does not displace evidentiary needs in criminal proceedings or the statutory hierarchy of creditors. Rather, it distinguishes the protection of claims from control over property retained as evidence. The study contributes by connecting asset status, curator authority, and seizure legality with the procedural conditions for recovery through extraordinary reconsideration, which are often addressed separately in scholarship on competing attachments.

## 4. CONCLUSION

The curator's authority over bankruptcy assets subject to criminal seizure and forfeiture derives from the Bankruptcy Law, but its exercise is constrained by the legal basis for control and the status of the property. General bankruptcy attachment does not invalidate lawful criminal seizure, and seizure does not itself extinguish creditors' claims. Recording and preserving the estate's interests are distinct from taking possession and liquidating property. Property lawfully forfeited in execution of a final and binding criminal judgment is unavailable for liquidation while the forfeiture remains operative. The 2025 Criminal Procedure Code retains the criminal-nexus requirement and regulates preservation of the economic value of seized property without retroactively supplying the legal basis for the 2024 judgment.

In Decision No. 68 PK/Pdt.Sus-Pailit/2024, the Supreme Court denied the PT SNP curators' application for extraordinary reconsideration because six documents lacked decisive relevance to the legality of seizure and forfeiture, the seizure for the state was deemed lawful under Articles 39(2) and 46(2) of the Criminal Procedure Code, and the manifest-error allegation exceeded the 30-day filing period. The judgment demonstrates the interaction between asset status and limits on procedural relief rather than the categorical superiority of criminal seizure over general bankruptcy attachment. The four-layer framework integrates asset status, seizure and forfeiture legality, the scope of curator authority, and the conditions for legal remedies. Its principal contribution is a systematic distinction between the recognition of curator authority, the availability of property for liquidation, and the possibility of recovery through applicable legal mechanisms.

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