

CHAPTER I

INTRODUCTION

A. Background of Study

With the development of the business world, the need to expand or to increase competitiveness is also increasing, but to make significant growth, a company certainly needs an injection of capital to expand its opportunities for market development, product renewal, and other innovations. The process will take a long time if you have to wait for internal funding or wait for organic profits to be processed again into company development costs, to fulfil the company's funding needs, capital is needed, this capital can come from own capital and funds from outside the company.¹ One way to find an injection of funds is to do debt with other parties. Debt in this case is not something that has a negative connotation, but companies as debtors generally make credit to banking entities or individuals, where credit can be interpreted as trust in the provision of credit (debt) that has been given by the creditor to the debtor that the credit that has been given to the credit recipient (debtor) can be returned in accordance with the agreement of both parties.²

The reality in practice is that not all debtors keep the payment time agreed upon by both parties. The sad reality is that not everyone is able to manage their company

¹ Ratna Ayu L, "Analisis Pengaruh Pendanaan dari Luar Perusahaan dan Modal Sendiri Terhadap Tingkat Profitabilitas Pada Perusahaan Automotive and Components yang Go Public Di Bursa Efek Indonesia", *Jurnal Akuntansi AKUNESA*, Edisi No. 2 Vol. 1 Universitas Negeri Surabaya, 2013, Page 2

² Andrianto, *Manajemen Kredit, Teori dan Konsep bagi Bank Umum*, Qiara Media, Pasuruan, 2020, Page 5

in an efficient and appropriate manner. A company can suffer losses due to Poor management, which can even lead to the company's inability to fulfill payments to creditors and ultimately lead to bankruptcy. Bankruptcy is a situation where the debtor in debt is no longer able to make debt payments to his creditors, this happens because of the financial condition of the debtor who is experiencing obstacles.³

According to Article 1 point 1 of Law Number 37 Year 2004 on Bankruptcy and postponement of debt payment obligations (Bankruptcy Law), “Bankruptcy is a general confiscation of all assets of a bankrupt debtor whose management and management is carried out by the Curator under the supervision of the Supervisory Judge as regulated in this Law.” Generally bankruptcy can be referred as a legal process in which an individual or entity unable to repay debts to creditors seeks relief from some or all of their financial obligations. It is typically initiated by the debtor or imposed by a court order. According to Jackson, bankruptcy is mainly about treating all creditors equally, which include many rules about which creditors get paid first.⁴ Bankruptcy serves as a mechanism to address insolvency and provides a structured process for debt resolution, often involving liquidation or reorganization of assets⁵. From a business point of view bankruptcy or insolvency is a deteriorating financial condition for a company, which can lead to low

³ M. Hadi Subhan, *Hukum Kepailitan, Prinsip, Norma, dan Praktik di Peradilan*, Prenadha Media Grup Jakarta, 2008, Page 1

⁴ David Gray Carlson, “Philosophy in Bankruptcy”, *Michigan Law Review*, Vol. 85, 1987, Page. 1347

⁵ Joseph Spooner, *Bankruptcy the Case for Relief in an Economy of Debt*, Cambridge University Press, 2019, Page 2

performance for a certain period of time that is sustainable, which ultimately makes the company lose its resources and funds.⁶

When connected with Article 2 of the Bankruptcy Law, it can be concluded that bankruptcy is a court decision so that if there is no court decision a debtor cannot be declared bankrupt and still has rights to his assets.⁷ Therefore, a bankruptcy decision will bind all assets owned by the debtor as a form of responsibility for the debtor who cannot pay his debts.⁸ When a Company has been declared bankrupt and insolvent it must be followed with dissolving it, which was according to Law Number 40 of 2007 Article 142 paragraph (1) letter e concerning Limited Liability Companies (Which further called UU PT), a dissolution of the company occurs if:

“Because the bankruptcy estate of the Company that has been declared bankrupt is in a state of insolvency as stipulated in the law on Bankruptcy and Suspension of Debt Payment Obligations.”

Even in the Point 19.3 Supreme Court Decree No. 109/KMA/SK/IV/2020 concerning guidelines for resolving bankruptcy cases and postponement of debt payment obligations stated that settlements related to dissolving a company must take an action in accordance with Law No. 40 of 2007. According to Law No. 40 of 2007 relating to UU PT The company must be dissolved immediately.

There are also another option to keep the company running, which is rehabilitation. Rehabilitation is the restoration of the good name of the debtor who was originally declared bankrupt, through a court decision containing a statement

⁶ Susanti Adi Nugroho, *Hukum Kepailitan di Indonesia dalam Teori dan Praktik serta Penerapan Hukumnya*, Prenada Media Group, Jakarta, 2018, Page. 29

⁷ Gunawan Widjaja, *Risiko Hukum & Bisnis Perusahaan Pailit*, Forum Sahabat, Jakarta, 2009, Page. 16

⁸ Man S. Sastrawidjaja, *Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang*, PT. Alumni, Bandung, 2006, Page.75

that the debtor has fulfilled his obligations. Rehabilitation in bankruptcy has an impact on restoring the good name of the bankruptcy debtor's status as an independent person or entity and is considered capable of acting on property carried out after the end of the bankruptcy process.⁹ Rehabilitation is fundamentally about providing debtors with a second chance, allowing them to discharge their debts and start anew. This process often includes not just the elimination of debts but also measures to address underlying financial issues that led to insolvency. The goal is to facilitate a permanent improvement in the debtor's financial situation, rather than merely offering a temporary relief from liabilities.¹⁰ According to Article 204 of the Bankruptcy Law, if creditors are unable to pay in full or there is no settlement, rehabilitation does not apply. Therefore, if the debtor is in business again after bankruptcy, creditors can still request that the remaining debts be paid in full without the need to file a new lawsuit but only request that the existing bankruptcy verdict be executed until all verified debts are paid in full.¹¹

Corporate Rescue Concept is a concept that prioritizes saving the debtor's business as a corporation, so that the debtor continues to have income so that he can still pay and pay off his debts to his creditors.¹² This concept seeks to prevent the debtor from being liquidated, as well as saving the interests of the debtor and the interests of his creditors, as well as other stake holders. This principle is in line

⁹ Susanti Adi Nugroho, *Op. Cit.*, Page. 382

¹⁰ Ali Et Al, "Bankruptcy and Debtor Rehabilitation an Australian Empirical Study", *Melbourne University Law Review*, Vol. 40, Melbourne University, 2017, Page.688

¹¹ Suci Fitriany, *Deskripsi Penyelesaian Kepailitan Melalui Upaya Perdamaian Berdasarkan UU No. 37 Tahun 2004*, S1 Skripsi, Universitas Lampung, 2016, Page. 19

¹² Roman Tomasic, *Creditor Participation in Insolvency Proceedings*, OECD, Paris, 2006, Page. 3-4.

with the purpose of bankruptcy rehabilitation. Similarly, the use of the phrase “originally declared bankrupt” in the Explanation of Article 215 of the Bankruptcy Law confirms that the notion of rehabilitation is not limited to “restoration of good name”, but also includes “lifting the bankruptcy status” that was previously imposed by the Commercial Court on the debtor, so that it is no longer bankrupt. The importance of reinstatement of company debtors who have been declared dissolved due to insolvency, but have proven to be able to pay off all their debts to their creditors, or are able to pay off all debts of the debtor from the proceeds of the bankruptcy estate.¹³, to be able to return to business is closely tied to the principles of fairness and business continuity as fundamental pillars of law reform.

Year	2019	2020	2021	2022	2023	2024
Bankruptcy petition	53	39	50	55	53	51
Rehabilitation petition	0	0	0	0	1	0

Table 1. Bankruptcy Case Application Data of Central Jakarta Commercial Court

Source: Case Search Information System of Central Jakarta District Court

Year	2019	2020	2021	2022	2023	2024
Bankruptcy petition	60	57	55	54	18	17
Rehabilitation petition	0	0	0	0	1	0

Table 2. Bankruptcy Case Application Data of Surabaya Commercial Court
Source: Surabaya Court Case Search Information System

The table shows that from the period 2019 to 2024 there are still very few efforts to make rehabilitation efforts, so the question arises, why corporate debtors still

¹³ Ricardo Simajuntak, “Memperkuat Konsep Rehabilitasi Debitor Korporasi Insolven Kala Seluruh Utang Terlunasi”, Terdapat dalam <https://www.hukumonline.com/berita/a/memperkuat-konsep-rehabilitasi-debitor-korporasi-insolven-kala-seluruh-utang-terlunasi-lt66f594c3cc894/?page=1>
Accessed on 5 January 2025

rarely apply for rehabilitation. There are several phenomena where there are Corporate debtors who have been declared insolvent and should have been liquidated and dissolved, but are still running without applying for rehabilitation. The unclear actions of the curator after the termination of bankruptcy based on Article 202 has resulted in legal uncertainty. Not a few insolvent corporate debtors are not terminated by liquidation of dissolution, as referred to in Article 142 paragraph (2) letter (a) of the UU PT, but also not rehabilitated based on Article 215 of the Bankruptcy Law. The curator simply returns all documents belonging to the insolvent debtor on the grounds of the end of bankruptcy under Article 202 paragraph (4) of the Bankruptcy Law. As a result, many debtors, which are legally dissolved, turn into “zombies” and even continue to do business after the end of the receivership. Rehabilitation will open up the potential for better debt settlement for creditors and encourage healthier business activities, rather than having to allow insolvent companies to become “zombies” and continue to do business, which will further strengthen unhealthy business practices.¹⁴ As what has happened in the bankruptcy case of PT Jaya Nur Success where due to the absence of a proposed peace plan, and the bankruptcy assets owned by PT Jaya Nur Success are in a state of insolvency. Automatically according to Article 142 of the UU PT, the company must be dissolved, but PT Jaya Nur Sukses still continues to make legal efforts. Even though the bankruptcy process has been completed, PT Jaya Nur Sukses is not authorized to re-manage its assets and cannot take legal action

¹⁴ *Ibid.*

because in theory it must be dissolved because it has not taken rehabilitation efforts.¹⁵

According to Ricardo Simajuntak, it is not easy for debtors who have been declared insolvent to continue their business, even though they are still financially capable of paying off their obligations. Most debtors tend to choose to be dissolved because building a new business is considered easier. When viewed from the other side, there are several factors that make corporate debtors still want to continue their business. One of these factors is that the company has share ownership in other companies that still have good business activities. In addition, the company may also have a promising future value, so it is worth maintaining. In some cases, the problems that cause insolvency are only temporary or limited to internal chaos, while the company still has a solid work team, a strong brand, and a wide distribution network. This can attract investors, and when there are many investors interested in investing and continuing the company's operations, the remaining obligations to creditors can be resolved. In such a situation, maintaining a company that is already known to the market is more profitable than having to build a new company that does not yet have a strong reputation or customer base.¹⁶

The implementation of this Rehabilitation can be further strengthened in practice, as is done, so as to protect the interests of creditors in another way, namely providing an opportunity for bankrupt companies to continue their business in the

¹⁵ Anisa Norma Ningtys Et. Al, "Rehabilitasi Pembubaran Perseroan Terbatas Sebagai Akibat dari Putusan Pernyataan Pailit", *Jurnal Adil*, Edisi. 2 Vol. 15, Universitas Sultan Ageng Tirtayasa, 2024, Page.234

¹⁶ <https://www.youtube.com/watch?v=F1NoAScJYqk&t=971s>, Last accessed on 18 Februari 2025

hope that in the future a better asset recovery will be obtained than liquidating the company's assets. And could be a appropriate way to cord This concept, in addition to protecting creditors, can also protect public interests, such as the protection of labor and the economic interests of a country because companies are the economic assets of a country.¹⁷

Therefore, based on the above problems, it is important for the author to study and analyze the problem of Rehabilitation which is still rarely pursued by insolvent debtors with the title "**Rehabilitation as a Corporate Rescue Effort for Bankrupt Company**".

B. Problem Formulation

Based on the background described above, the following problems can be formulated:

1. Why are rehabilitation legal efforts still rare in corporate bankruptcy cases?
2. Can rehabilitation be a corporate rescue for companies that have been declared bankrupt?

C. Research Objectives

Based on the problem formulation described above, the objectives of this study include:

1. To analyse why rehabilitation efforts are still rarely carried out by bankrupt company.

¹⁷ Asra, *Kepailitan Korporasi (Corporate Rescue: Key Concept dalam Kepailitan Korporasi)*, Penerbit Diadit Media, Jakarta, 2015, Page. 3

2. To analyse can rehabilitation efforts be a corporate rescue effort for companies that have been declared bankrupt.

D. Research Benefits

The research in this thesis has two main benefits, namely theoretical and practical benefits. In theoretical terms, this research is expected to make an important contribution to the development of legal science, especially in the fields of civil law and bankruptcy law, with an emphasis on the discourse on rehabilitation in bankruptcy proceedings. This study aims to broaden knowledge and improve understanding of the factors that influence the implementation of bankruptcy rehabilitation, which until now has rarely been discussed. In addition, the results of this study can also be used as reference material in the development of knowledge relevant to courses in the field of law.

On the practical side, this research is expected to be a useful reference source for various interested parties. For the legislature, the results of this research can be used as a basis for formulating norms related to bankruptcy regulations and the UU PT. For executives, this research can help in formulating policies related to the implementation of bankruptcy rehabilitation. Meanwhile, for the judiciary, this research can be used as a reference in resolving cases related to bankruptcy rehabilitation. Equally important, this research can also provide the public with an understanding of the concept of bankruptcy rehabilitation, which is expected to support the renewal of the bankruptcy legal system in Indonesia.

E. Originality of Research

Based on the results of research that has been conducted, there are previous studies that have similarities with the research that has been conducted. This research certainly presents different problems compared to previous research.

These studies include:

No.	Name, (Year), "Title", Type of writing, dan Agencies/Publications	Similarities	Differences
1.	Norna Haniaden, Mas Anienda Tien Fitriyah, (2022) "Akibat Hukum Debitor yang Tidak Menempuh Upaya Hukum Rehabilitasi Setelah Kepailitan Berakhir", <i>Jurnal Justisia</i> , Vol. 9, Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jawa Timur.	This study discusses the consequences if a debtor does not take legal action to rehabilitate when bankruptcy ends.	This study focuses on the failure to carry out the rehabilitation process in bankruptcy, as well as identifying various factors that cause bankrupt debtors not to undergo the rehabilitation process and the legal implications that arise due to the absence of such efforts. Meanwhile, the author focuses on analyzing the causes of the rarity of bankruptcy and how bankruptcy can be an effort of <i>corporate rescue</i> .

2.	<p>Aliya Sandra Dewi, (2023), "Rehabilitasi Pemulihan Nama Baik Debitor Pailit di Indonesia", <i>The Juris</i>, Vol. VII, Fakultas Hukum, Universitas Pamulang.</p>	<p>In general, this journal discusses regulations and processes related to bankruptcy settlements in Indonesia. This journal mainly discusses rehabilitation in general as another alternative to bankruptcy settlement, which is only acceptable if the creditors receive full payment.</p>	<p>This study focuses on discussing the process of filing for bankruptcy up to the judge's decision and focuses on a general explanation of the concept of rehabilitation for debtors who have been declared bankrupt and want to start a business again. Meanwhile, the author focuses on looking for obstacles for debtors in applying for rehabilitation so that it is still rarely done.</p>
3.	<p>Hernawan Azis Nugroho, (2024) "<i>Pengaturan Rehabilitasi Bagi Notaris yang Dinyatakan Pailit Menurut Undang Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban</i>", Tesis, Universitas Islam Indonesia</p>	<p>This study concluded that rehabilitation for a notary who is declared bankrupt should allow for a return to office, given that bankruptcy only has an impact on assets, not on the person. In addition, the temporary dismissal of a notary due to bankruptcy for more than 6 months creates legal uncertainty, both for the notary and the</p>	<p>This study focuses on rehabilitation for corporate debtors who have been declared bankrupt but can exercise their right to rehabilitation. The difference lies in the subject of the study, which focuses on rehabilitation efforts for corporate debtors.</p>

		<p>replacement notary. The absence of regulations regarding the extension of the temporary suspension period has an impact on the unclear status of the Notary's position and the principle of legal certainty.</p>	
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F. Literature Review

1. Bankruptcy

The term “bankruptcy” etymologically comes from the word “pailit,” which is absorbed from the French “faillite,” which means the inability to pay. In Dutch, the equivalent is “failliet,” which can function as a noun or an adjective. Meanwhile, in English, the equivalent is “to fail,” which means the inability to succeed.¹⁸ According to Munir Fuady's analysis, bankruptcy is a general takeover of all the debtor's assets with the aim of reaching an agreement

¹⁸ Rachmadi Usman, *Dimensi Hukum Kepailitan di Indonesia*, Gramedia Pustaka Utama, Jakarta, 2004, Page. 11.

between the creditors and the debtor, so that the assets can be distributed fairly among the creditors.¹⁹ According to Munir Fuady's analysis, bankruptcy is a general takeover of all the debtor's assets with the aim of reaching an agreement between the creditors and the debtor, so that the assets can be distributed fairly among the creditors.²⁰ It can be concluded that bankruptcy is a situation where the debtor is unable to make payments on debts from his creditors. The state of inability to pay is usually caused by the financial distress of the debtor's business which has experienced a setback. Meanwhile, bankruptcy is a court decision that results in a general confiscation of all the assets of the bankrupt debtor, whether they have existed or will exist in the future. The management and administration of bankruptcy is carried out by a curator under the supervision of a supervisory judge with the main objective of using the proceeds from the sale of the property to pay all debts of the bankrupt debtor in proportion (prorate parte) and in accordance with the creditor structure.²¹

A debtor can be declared bankrupt if it has fulfilled the bankruptcy requirements as stipulated in Article 2 paragraph (1) of the Bankruptcy Law. The juridical requirements for a company to be declared bankrupt include the existence of debt, at least one of which is due, at least one of which is collectible, the existence of a debtor, the existence of a creditor, the number of

¹⁹ Munir Fuady, *Hukum Pailit 1998 dalam Teori dan Praktek*, Citra Aditya Bakti, Bandung, 2002, Page. 8.

²⁰ Look at the definition of bankruptcy in Black's Law Dictionary yang mendefinisikan kepailitan atau bankruptcy sebagai *statutory procedure by which a debtor obtains financial relief and under goes judicially supervised reorganization or liquidation of the debtor's asset for benefit of creditors*.

Black's Law Dictionary, 8th Edition, (St. Paul: Thomson Bussines, 2004), Page. 156

²¹ M. Hadi Subhan, *Loc. Cit.*

creditors is more than one, and a declaration of bankruptcy made by a special court called the Commercial Court. Based on these provisions, it can be concluded that there are three main requirements for a company to be declared bankrupt, namely: (1) there must be debt; (2) one of the debts has been outstanding for a sufficient period of time and is collectible; and (3) the debtor has at least two or more creditors. The requirements for bankruptcy as stipulated in Article 2 paragraph (1) of the Bankruptcy Law are relatively simple. In fact, a debtor who is actually able to pay his debts can still be declared bankrupt by the court if the three requirements for bankruptcy have been met in a normative manner.²² In the event of bankruptcy, there are several legal consequences for the party declared bankrupt. Munir Fuady argues that when a debtor is declared bankrupt, many juridical consequences are applied to him by law. These juridical consequences apply to debtors by two methods of enforcement, namely by operation of law and by the rule of reason.

Where applicable by law, some legal consequences automatically apply as soon as a declaration of bankruptcy is issued, has permanent legal force, or after the bankruptcy process is completed. The Commercial Court, supervising judge, curator, and other parties involved in the bankruptcy process have no direct influence on these legal implications. One example is the prohibition for bankrupt debtors from traveling outside their place of residence, as regulated in Article 97 of the Indonesian Bankruptcy Law Number 37 of 2004. In certain

²² Lilik Warsito, "Urgensi Pembuktian Syarat Kepailitan dan Tes Insolvensi Dalam Permohonan Kepailitan", *The Juris*, Vol. 7, Fakultas Hukum, Universitas Darul Ulum Islamic Centre Sudirman, 2024, Page 824.

situations, the supervising judge still has the authority to grant permission regarding the domicile of the debtor.

It is applicable based on the rule of reason principle, in some cases, bankruptcy sanctions under legislation do not automatically apply, but depend on their application by the competent authorities for justifiable reasons. This means that the sanctions only apply if the relevant parties, such as the curator, the Commercial Court, or the supervising judge, decide to apply them based on reasonable considerations.²³

2. Bankruptcy Rehabilitation

Bankruptcy, on the other hand, also emphasizes how a company can still operate. The Bankruptcy Law also has the objective of rehabilitating debtors who have been declared bankrupt. Rehabilitation, according to the complete Indonesian dictionary, is a restoration to its original position, a return to its previous state.²⁴ This definition explains rehabilitation as a process of recovery or restoration of a person's status, where the decision rendered states that the debtor has fulfilled all the requirements in the bankruptcy case. Because after the end of the bankruptcy (in accordance with Articles 166, 202, and 207 of the Bankruptcy Law), the Debtor or his heirs can file a petition for rehabilitation to the court that previously pronounced the bankruptcy decision.²⁵ In applying for

²³ Joko Sriwidodo, *Perkembangan Hukum Kepailitan dan PKPU di Indonesia*, Penerbit Kepel Press, Yogyakarta, 2024, Page. 68

²⁴ Edward Manik, *Cara Mudah Memahami Proses Kepailitan dan Penundaan Kewajiban Pembayaran Utang: Dilengkapi Dengan Studi Kasus Kepailitan*, CV. Mandar Maju, Bandung, 2012, Page.176

²⁵ Aliya Sandra Dewi, "Rehabilitasi Pemulihan Nama Baik Debitor Pailit di Indonesia", *The Juris*, Vol.VII, Fakultas Hukum, Universitas Pamulang, 2023, Page. 5

rehabilitation, evidence is needed to state that the debtor has fulfilled his obligations for all debts so that a framework for thinking about society regarding bankruptcy is created. In fact, a bankruptcy petition is intended to force debtors who have fulfilled their obligations to immediately fulfill their obligations while remaining on the legal track.²⁶

After all the bankruptcy proceedings between the parties are completed, the debtor can apply for rehabilitation. This rehabilitation will be granted on condition that evidence is attached to the application letter stating that all recognized Creditors have been satisfactorily paid, then the rehabilitation application is announced in a daily newspaper appointed by the court.²⁷

3. Corporate Rescue Doctrine

Corporate rescue in corporate bankruptcy is a legal theory that emphasizes that a company that goes bankrupt does not necessarily have to be liquidated, but rather given the opportunity first to continue its business. In bankruptcy law, there are two main concepts, namely liquidation and corporate rescue, both of which are included in the bankruptcy law regime. Examples of the application of these two concepts can be found in the US Bankruptcy Code, specifically in Articles 7 and 11. Article 7 regulates bankruptcy oriented towards company liquidation, while Article 11 regulates corporate rescue, which is known as reorganization.

²⁶ Ilham Arfian, *Upaya Rehabilitasi Debitor Perseroan Terbatas yang Telah Diyantakan Pailit Oleh Pengadilan*, Tesis, Universitas Airlangga, 2018, Page. 15

²⁷ Aliya Sandra Dewi, *Op. Cit.*, Page. 293

The concept of liquidation places greater emphasis on the protection of creditors and investors by selling the company's assets to pay off debts. Meanwhile, corporate rescue is also oriented towards creditor protection, but with a different approach, which is to give the company the opportunity to continue its business. The concept of corporate rescue suggests that the bar for corporate rescue of distressed companies is not set too high so that its objective is rendered difficult to attain, by insisting on restoring the companies to its pre-insolvent financial health status.²⁸ The hope is that, in the long term, the company can carry out more optimal asset recovery compared to simply liquidating its assets. In addition to protecting creditors, corporate rescue also has a positive impact on the public interest, such as maintaining labor continuity and supporting the economic stability of a country. This is because companies are not only business entities, but also important assets in the national economy.²⁹

G. Operational Definitions

In writing this study, the author has formulated the terms that exist in the researcher's problem, with the intention of equalizing perception in a sense, including:

- 1. Rehabilitation** refers to the process of recovery or restoration of the status of a person previously declared bankrupt, which is legalized through a court decision stating that the debtor has fulfilled all legal obligations

²⁸ Chen, T. W. Et. Al, "Theories of corporate insolvency: A philosophical analysis of the corporate rescue mechanisms under the Companies ACT 2016", *UUM Journal of Legal Studies*, Vol. 12, Universiti Utara Malaysia, 2021, Page. 167-202.

²⁹ Asra, *Op. Cit.*, Page. 5

related to the bankruptcy process based on Article 215 of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, this process aims to restore the debtor's good name after the debtor fulfills his obligations as stipulated in the court decision.³⁰

2. Bankrupt Company refers to a condition in which a company is unable to meet its financial obligations, resulting in the court declaring it bankrupt. In the Bankruptcy Law, the bankruptcy process aims to protect the rights of creditors and provide an opportunity for debtors to restructure their debts before being declared bankrupt.³¹

3. Corporate Rescue Efforts refers to an approach aimed at rescuing companies in difficult financial conditions so that they can continue to operate and fulfil their debt obligations to creditors,³² where bankruptcy law is only seen as debt collection to force debtors to pay their debts by liquidating the debtor's assets.³³

H. Research Method

1. Research Typology

The typology or type of research to be used in the thesis on Rehabilitation as a Corporate Rescue Effort for Bankrupt Companies is normative and doctrinal

³⁰ Joko Sriwidodo, *Op. Cit.*, Page.167

³¹ Ellen santoso, *Et al.*, "Dispute Resolution of Business Actors who Have Experienced Bankruptcy Based on Consumer Protection Law", *Syntax Idea*, Vol. 6, Universitas Tarumanegara, Jakarta, 2024, Page. 1923

³² Natasya Aisyah Sitompul, "Konsep Corporate Rescue dalam Hukum Kepailitan di Indonesia", *Tanjungpura Law Journal*, Vol. 5, Fakultas Hukum, Universitas Indonesia, 2021, Page. 38

³³ J. Amour, "The Law and Economics of Corporate Insolvency: A Review", *ECRC Center for Business Research*, University of Cambridge, Working Paper No. 97, 2001, Page. 9 and 11

research that is also supported by interview data.³⁴ According to Peter Mahmud Marzuki, normative legal research is a process of discovering legal rules, legal principles, and legal doctrines to answer the legal issues faced.³⁵ On the other hand, doctrinal legal research methodology explains legal issues based on doctrine or previous legal opinions relevant to the legal issues discussed.³⁶ Based on this definition, the research in this thesis uses a normative legal approach. This is because the researcher relies on library sources as the main data in analyzing cases.

2. Research Approach

The approach in this study includes the statutory approach (statute approach), conceptual approach, and case approach. In a sense, in building this research, an approach used to examine laws and regulations that are still related to the legal issues regarding the implementation of bankruptcy rehabilitation efforts as a basis for conducting research, by studying the norms or legal rules that exist in legal practice, especially regarding cases that have been decided and/or are ongoing.³⁷ This research is also accompanied by examining the concepts, namely the concepts and doctrines underlying legal problems related to bankruptcy rehabilitation as a corporate rescue effort.³⁸

³⁴ Bambang Sunggono, *Metodologi Penelitian Hukum*, cet. Keempat, Raja Grafindo Persada, Jakarta, 2002, Page. 43.

³⁵ Peter Mahmud Marzuki. *Penelitian Hukum*, Kencana Prenada Group, Jakarta, 2007, Page 35.

³⁶ Ery Agus Priyono, *Bahan Kuliah Metodologi Penelitian*, Program Studi Magister Kenotariatan Universitas Diponegoro, Semarang, 2003/2004, Page 23.

³⁷ *Ibid.* Page. 321-322

³⁸ Johnny Ibrahim, *Theory and Methodology of Normative Law Research*, Bayumedia, Malang, 2011, Page. 303

3. Object of Research

The object of research includes all documents that create a system of norms. The author will research the system of rules or regulations and its implementation as the research topic of rehabilitation as a corporate rescue effort for bankrupt companies as the subject of this study.³⁹

4. Source of Research Data

The data sources that the author uses in research on Corporate Rescue Effort For Bankrupt Companies are not authentic data sources processed by the author. The author also uses secondary data which is data obtained from primary, secondary and tertiary legal materials, including:

- a. Primary Legal Material, which is authoritative legal material, meaning it has legally binding authority⁴⁰, including:
 - 1) Indonesian Civil Code;
 - 2) Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations;
 - 3) Law Number 40 of 2007 concerning Limited Liability Companies;
 - 4) Decree of the Chief Justice of the Supreme Court No. 109/KMA/SK/IV/2020 concerning guidelines for resolving bankruptcy cases and postponement of debt payment obligations.
- b. Secondary Legal Material, is legal material that has no binding force, but serves to provide an explanation, interpretation, or analysis of primary legal material. This sources are the result of the thoughts of

³⁹ Sigit Sapto Nugroho, *Metodologi Riset Hukum*, Oase Pustaka, Jawa Tengah, 2020, Page. 37.

⁴⁰ Peter Mahmud Marzuki, *Op. Cit.*, Page. 141

legal experts as set out in books, journals, articles, or comments on legislation.⁴¹

- c. Tertiary legal materials are legal materials that provide guidance or references in understanding primary and secondary legal materials. This source is not binding or directly explaining the law, but functions as a tool for searching for and understanding legal information.⁴² Which are further sourced likely from legal dictionaries such as Black's Law Dictionary or other language dictionaries.

5. Data Collection Techniques

The data collection used is a literature study, by collecting and analyzing primary, secondary, and tertiary legal materials⁴³ relating to bankruptcy rehabilitation and its relationship to corporate rescue, such as books, journals, scientific papers, laws and regulations and supported by interview data with Sexio Yuni Noor Sidqi, Managing Partner Sidqi & Sidqi Advocates and Yusuf Pranowo, Judge (Hakim Utama Muda, Pembina Utama Madya) at Commercial Court of the Central Jakarta District Court. The author also conducted a document study by reviewing several official institutional documents in the form of legislation.

6. Data Analysis

The data analysis method used by the author is qualitative descriptive analysis, where the researcher not only processes and presents data, but also

⁴¹ *Ibid.*

⁴² Johnny Ibrahim, *Op. Cit*, Page. 57

⁴³ Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Raja Grafindo, Depok, 2020, Page.39

conducts qualitative data analysis. This is intended to synergize the data obtained with various literature and other data related to the issue of bankruptcy rehabilitation and its relationship with corporate rescue.

I. Thesis Framework

This study consists of 4 (four) chapters, which can be divided into the following:

CHAPTER I INTRODUCTION

The introduction consists of a description of the background of the research with the title “Rehabilitation as a Corporate Rescue Effort for Bankrupt Company”.

The next chapter sequentially contains Problem Formulation, Research Objectives, Research Benefits, Research Originality, Literature Review, Operational Definitions, Research Methods, and Thesis Framework.

CHAPTER II GENERAL OVERVIEW

This chapter presents a systematic overview including an overview of harmonization, an overview of rehabilitation, an overview of the doctrine of corporate rescue.

CHAPTER III ANALYSIS

This chapter comprehensively describes the results of research analysis from various data that has been obtained by the author. There are 2 (two) discussions

presented in this chapter. First, it examines why rehabilitation efforts are still rarely carried out in bankruptcy revocation. Second, why rehabilitation can be an effort as a corporate rescue for companies that have gone bankrupt.

CHAPTER IV CLOSING

This chapter contains a discussion of conclusions and suggestions that aim to answer the problem formulation in this study. The conclusions and suggestions presented will relate to rehabilitation as an effort to rescue companies experiencing bankruptcy. Hopefully, this section can provide benefits and become a reference in developing a discourse on bankruptcy rehabilitation in Indonesia.