

# The Role of Supreme Court Circular Letters (SEMA) in Shaping Judges' Ratio Decidendi on the Scope of General Attachment in Indonesian Bankruptcy Law

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*consistency in judicial decisions, filling legal gaps, and strengthening legal certainty in complex bankruptcy cases involving third-party interests.*

**Abstract:** Differences in the interpretation of the scope of general seizure in bankruptcy cases in Indonesia have created legal uncertainty, particularly regarding the distinction between the assets of the bankrupt debtor and those of third parties. In commercial court practice, judges rely not only on statutory regulations but also on Surat Edaran Mahkamah Agung (SEMA) as interpretive references, giving rise to debate over their position as a source of law. This study aims to analyze the influence of SEMA, particularly SEMA Number 2 of 2024, on the formation of judges' ratio decidendi in interpreting general seizure in bankruptcy. This research adopts a normative juridical method using statutory, conceptual, and case approaches, through a prescriptive-analytical examination of primary and secondary legal materials. The findings indicate that SEMA functions as an interpretive guideline that significantly influences judges' legal reasoning in limiting the scope of general seizure to the assets of the bankrupt debtor, despite lacking formal status within the hierarchy of laws and regulations. The study also reveals variations in the use of SEMA depending on judges' interpretive approaches and value orientations in adjudication, where some prioritize strict legal certainty while others emphasize substantive justice. This research contributes to a broader understanding of the dynamics of legal sources in judicial practice and underscores the role of SEMA in promoting

**Keywords:** Bankruptcy Law; General Seizure; Ratio Decidendi; Supreme Court Circular Letter (SEMA), Third-party Assets.

## Introduction

The development of bankruptcy law in Indonesia reflects a complex dynamic, particularly in the interpretation of general seizure as a legal consequence of bankruptcy adjudication by commercial courts. Normatively, Article 21 of Law Number 37 of 2004 stipulates that bankruptcy encompasses all assets of the debtor as part of the bankruptcy estate; however, in judicial practice, there has been a tendency to extend the meaning of general seizure to include assets belonging to third parties who have a legal relationship with the debtor, such as personal guarantors or parties involved in related agreements (Indreswari, 2023). This phenomenon reflects a tension between the principle of legal certainty and the protection of third-party rights within bankruptcy proceedings, ultimately leading to inconsistencies in the application of law by judges (Lintario, Y. G., Putri, 2023). In this context, the role of judges as legal interpreters becomes crucial in determining the

scope of general seizure through the legal reasoning embodied in the ratio decidendi of their decisions (Usada, A., Gusti, I., Handayani, A. K., Karjoko, 2021).

Nevertheless, judicial practice in commercial courts still reveals significant disparities in decisions concerning the determination of objects subject to general seizure, particularly when third-party interests are involved. These differences in interpretation not only create legal uncertainty but also risk undermining the protection of parties who should be legally safeguarded, such as good-faith purchasers or lawful owners of disputed assets (Kesuma, A. Y., Mahmudah, 2024). Furthermore, conflicts between bankruptcy norms and seizure mechanisms in other legal domains, such as criminal law, further complicate legal application and weaken the position of creditors and third parties (Lintario, Y. G., Putri, 2023). This condition indicates an urgent need for interpretive instruments capable of harmonizing divergent legal interpretations to ensure consistency and legal certainty in commercial court practice.

From a conceptual perspective, this issue can be analyzed through the theory of ratio decidendi as the core of judicial reasoning that determines the direction and legitimacy of a court decision. Ratio decidendi reflects a process of legal reasoning that is not solely based on written norms but also on the interpretation of justice and legal certainty principles (Septiandani, D., Soegianto, S., Sukmadewi, Y. D., Susilo, 2024). In practice, judges often refer to non-legislative instruments such as Surat Edaran Mahkamah Agung (SEMA) as guidelines in constructing their legal reasoning, despite its normative position being outside the formal hierarchy of legislation (Pramono, 2023). The use of SEMA as a basis for judicial reasoning demonstrates a shift in its function from a mere administrative instrument to an interpretive reference in judicial practice, which is particularly relevant when examined through Gustav Radbruch's theory of justice emphasizing the balance between legal certainty, justice, and utility.

Based on the foregoing, this study aims to analyze the extent to which Surat Edaran Mahkamah Agung, particularly SEMA Number 2 of 2024, influences the formation of the ratio decidendi of commercial court judges in interpreting the scope of general seizure in bankruptcy cases. The research question addressed in this study is how SEMA affects judicial reasoning in determining the objects of general seizure and to what extent it functions as a practical source of law in the process of legal discovery. This study also posits the hypothesis that SEMA emerges as an instrument to fill legal gaps and provide interpretive clarity in situations where statutory provisions are ambiguous or open to broad interpretation.

The scientific contribution of this study lies in its effort to position SEMA within a broader framework as part of the sources of law in judicial practice, particularly in the context of shaping the ratio decidendi of commercial court judges. Unlike previous studies that primarily regard SEMA as a purely administrative instrument, this research highlights its practical role in influencing judicial consistency and strengthening legal certainty in bankruptcy cases (Kiky, A. A., Sihabudin, Widhiyanti, 2025). Accordingly, this study contributes both conceptually to the development of legal source theory and practically to enhancing the quality of judicial reasoning in bankruptcy adjudication in Indonesia.

## Literature Review

The main concepts underlying this study are rooted in the theory of legal sources, *ratio decidendi*, and the principle of legal certainty within the judicial system. In Indonesia's civil law tradition, formal sources of law are generally confined to statutory regulations; however, in practice, non-legislative instruments such as Surat Edaran Mahkamah Agung (SEMA) have developed as interpretive guidelines for judges (Khairunisa, S. F., Gultom, E., Suryamah, 2024). *Ratio decidendi* itself is understood as the core legal reasoning that forms the basis of judicial decisions and reflects the process by which judges interpret and apply legal norms to concrete cases (Amirudin, A., Fidhayanti, 2025). Within Gustav Radbruch's theory of justice, *ratio decidendi* ideally embodies a balance between legal certainty, justice, and utility, indicating that judicial reasoning is not solely grounded in textual norms but also in substantive legal values (Salwa, D. A., Setiawan, 2023).

Previous studies demonstrate that judicial legal reasoning in Indonesia continues to face challenges in maintaining consistency and legal certainty, particularly in bankruptcy and civil cases. Inconsistencies often arise from differing interpretations of the same legal provisions, as illustrated in cases concerning the use of language in agreements, which have resulted in contradictory judicial decisions (Amirudin, A., Fidhayanti, 2025). Furthermore, regulatory disharmony in bankruptcy law contributes to uncertainty in creditor protection and the determination of bankruptcy estate assets [14]. Other research highlights that judges frequently engage in legal discovery to address normative ambiguities or conflicts, thereby creating variations in *ratio decidendi* (Aditya, 2023).

Despite these findings, there remains a significant research gap regarding the role of SEMA in shaping *ratio decidendi*. Some studies position SEMA merely as an administrative instrument lacking binding legal force within the hierarchy of legislation and potentially conflicting with the principle of *lex superior derogate legi inferiori* when its provisions diverge from statutory law (Jaya, R. I., Adjie, 2024). Conversely, empirical findings indicate that judges do not consistently rely on SEMA, particularly when considerations of substantive justice outweigh adherence to administrative guidelines (Mubarak, H. H., Kharisma, 2023). This divergence reflects a tension between the normative status and practical function of SEMA within judicial decision-making.

In this context, the present study positions itself to address this gap by conceptualizing SEMA as a practical source of law that influences the formation of *ratio decidendi*, particularly in bankruptcy cases involving the scope of general seizure. Unlike prior research that treats SEMA dichotomously as either administrative or non-binding, this study examines how SEMA is concretely utilized in judicial reasoning as an interpretive reference in court practice. Thus, this research contributes to expanding the understanding of legal sources within a civil law system that demonstrates adaptive characteristics in response to judicial needs (Chariansyah, 2025).

Trends in previous studies indicate that normative juridical approaches dominate research on bankruptcy law and *ratio decidendi*, typically combining statutory, conceptual, and case-based analyses. These approaches are employed to examine inconsistencies in judicial decisions and to analyze the reasoning underlying various legal contexts, including family law, constitutional law, and bankruptcy law (Syauqi, A., Bakri, M., Permadi, 2020). Moreover, there is an increasing tendency to incorporate philosophical analysis in

understanding judicial orientations, ranging from strict legal positivism to more progressive approaches that emphasize societal interests and substantive justice (Suci, I. D. A., Murjiyanto, R., Zahir, M. Z. M., 2024). This indicates that studies on *ratio decidendi* extend beyond doctrinal analysis and engage broader theoretical dimensions.

Based on this body of literature, a conceptual synthesis can be drawn that the formation of *ratio decidendi* in bankruptcy cases is shaped by the interaction between statutory norms, interpretive instruments such as SEMA, and the underlying values upheld by judges. Although SEMA does not formally occupy a position within the legislative hierarchy, in practice it functions as a guideline that can influence judicial reasoning, particularly when legal norms are ambiguous or open to multiple interpretations. Accordingly, this study is grounded in the assumption that SEMA plays a significant role as a practical legal source in the process of judicial law-finding, which will be further examined through a prescriptive analytical approach in the methodology section.

### **Methodology**

This study employs a normative juridical research approach with a prescriptive orientation toward analyzing legal norms and judicial practices, particularly concerning the role of Surat Edaran Mahkamah Agung (SEMA) in shaping the *ratio decidendi* of commercial court judges. A normative approach is appropriate because the research focuses on the construction, interpretation, and application of legal norms within judicial decisions, aiming to produce systematic legal arguments grounded in doctrine (Herliana, 2024). The research strategy integrates statutory, conceptual, and case approaches, enabling a comprehensive examination of positive law, legal theory, and judicial practice in concrete cases (Chariansyah, 2025).

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include statutory regulations, particularly Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, SEMA Number 2 of 2024, and relevant commercial court decisions that are publicly accessible. Secondary legal materials comprise scholarly journal articles, legal textbooks, and doctrinal writings related to bankruptcy law, legal sources, and *ratio decidendi* theory. The combination of these materials allows for a comprehensive understanding of the relationship between written norms and judicial practice in shaping legal reasoning (Muhajir, M., Uyun, 2021).

Data collection is conducted through library research, involving a systematic search of legal databases and open-access academic journals. This process includes identifying, classifying, and selecting legal materials based on their relevance to the research issue. In the case approach, court decisions are collected through official Supreme Court databases and other credible legal information platforms, enabling an in-depth examination of judicial reasoning in cases concerning the scope of general seizure in bankruptcy (Wahyudin, M. N. H., Hakim, U. L., Sitorus, C. S., Mahipal, Asrun, 2025).

The inclusion criteria for selecting legal materials and literature are purposively defined as follows: (i) direct relevance to bankruptcy law, general seizure, or the role of SEMA in judicial practice; (ii) containing analysis of *ratio decidendi* or judicial reasoning; (iii) academically verifiable and accessible through open-access sources; and (iv) published within the last five years to ensure the relevance and currency of the analysis. Exclusion criteria include sources lacking direct relevance, insufficient academic validity, or restricted

access to full content. These criteria ensure the quality and reliability of the legal materials analyzed (Prihasmoro, A., Sopyan, Y., Abdullah, 2024).

The unit of analysis in this study is the judicial reasoning (*ratio decidendi*) contained in commercial court decisions, particularly those addressing the interpretation of the scope of general seizure in bankruptcy cases. Additionally, SEMA is examined as a normative object to assess its position and function in influencing judicial reasoning. Accordingly, the unit of analysis encompasses not only written legal texts but also the interpretive practices reflected in judicial decisions (Syauqi, A., Bakri, M., Permadi, 2020).

Data analysis is conducted using a prescriptive-analytical method through three main stages. First, normative interpretation is applied to determine the conceptual boundaries of general seizure in bankruptcy law based on statutory provisions and legal doctrine. Second, a comparative analysis of court decisions is carried out to identify patterns of convergence and divergence in judicial reasoning concerning the objects of general seizure. Third, an evaluative analysis is undertaken to assess the role of SEMA in shaping judges' *ratio decidendi*, particularly in its function as an interpretive reference in judicial practice. This analytical process employs deductive legal reasoning to produce systematic and principled legal arguments aimed at enhancing legal certainty (Budiman, F. C., Sudarwanto, A., 2026).

## **Result and Discussion**

The findings of this study indicate that, in the practice of commercial courts in Indonesia, there is a pattern of variation in interpreting the scope of general seizure in bankruptcy cases, as reflected in judicial decisions. Based on the analysis of various rulings, it is found that some judges consistently limit general seizure to the assets of the bankrupt debtor in accordance with the normative construction of bankruptcy law, while others extend its scope to include assets of third parties who have certain legal relationships with the debtor, such as guarantors or parties bound by specific agreements (Jaya, R. I., Adjie, 2024). This variation is also evident in cases involving third parties, such as holders of sale and purchase binding agreements (*Perjanjian Pengikatan Jual Beli* or *PPJB*), where some decisions recognize the rights of third parties over disputed assets, while others include such assets within the bankruptcy estate (Khairunisa, S. F., Gultom, E., Suryamah, 2024).

Furthermore, the results show that normative conflicts arise when general seizure in bankruptcy intersects with seizure mechanisms in other legal domains, such as criminal or administrative proceedings, thereby affecting the certainty of asset execution. In certain situations, seizure in criminal cases holds a stronger legal position than general seizure in bankruptcy, influencing the distribution of assets to creditors (Mubarak, H. H., Kharisma, 2023). Additionally, inconsistencies between bankruptcy law and other legal sectors, such as Islamic economic law, contribute to divergent practices in judicial settlement of cases (Prihasmoro, A., Sopyan, Y., Abdullah, 2024).

With regard to the use of *Surat Edaran Mahkamah Agung* (SEMA), the findings demonstrate that SEMA is factually used by judges as a reference in forming legal reasoning, although it is not always explicitly cited in judicial decisions. Several studies indicate that SEMA can serve as a basis for judicial consideration, particularly in situations where there is a legal vacuum or ambiguity in statutory provisions (Lintario, Y. G., Putri, 2023). However, there are also findings showing that, in certain circumstances, judges may

set aside *SEMA* in favor of substantive justice considerations, reflecting flexibility in its application (Muhajir, M., Uyun, 2021).

The analysis of judges' ratio decidendi patterns reveals that judicial reasoning is strongly influenced by the interpretive approach adopted by judges. In some decisions, judges tend to apply a textual approach oriented toward legal certainty, while in others, a teleological or progressive approach is used, emphasizing justice and utility considerations (Wahyudin, M. N. H., Hakim, U. L., Sitorus, C. S., Mahipal, Asrun, 2025). These variations in interpretive approaches result in differences in the construction of ratio decidendi, ultimately affecting the outcomes of similar cases.

Moreover, the findings indicate that the role of judges in legal discovery (*rechtsvinding*) is a crucial factor in shaping ratio decidendi, particularly when legal norms do not provide sufficient clarity. Judges utilize various sources, including legal doctrine, jurisprudence, and administrative instruments such as *SEMA*, to fill legal gaps and resolve normative conflicts (Aditya, 2023). In this context, ratio decidendi reflects not only the application of legal norms but also the process of legal construction undertaken by judges.

On the other hand, the results also reveal ongoing debates regarding the normative status of *SEMA* within the Indonesian legal system. Some studies indicate that *SEMA* does not possess binding legal force equivalent to statutory regulations and cannot override higher legal norms (Kiky, A. A., Sihabudin, Widhiyanti, 2025). Furthermore, there are findings suggesting that certain *SEMA* provisions may conflict with the hierarchical principle of *lex superior derogate legi inferiori*, particularly when their substance diverges from statutory law (Kesuma, A. Y., Mahmudah, 2024).

Additionally, the findings show that the use of *SEMA* in judicial reasoning does not always lead to consistent decisions. Some rulings explicitly refer to *SEMA* as a basis for legal consideration, while others do not utilize it at all despite its relevance to the issues at hand (Salwa, D. A., Setiawan, 2023). This indicates that the application of *SEMA* in judicial practice remains non-uniform and depends on the interpretive preferences of individual judges.

Finally, the results demonstrate that the quality of ratio decidendi in judicial decisions is closely linked to the depth of legal reasoning employed by judges. In some cases, judicial considerations do not fully reflect comprehensive analysis of facts and legal norms, potentially leading to ambiguity in legal application (Syauqi, A., Bakri, M., Permadi, 2020). Conversely, there are decisions that exhibit systematic and well-structured legal reasoning, contributing to enhanced legal certainty in judicial practice (Herliana, 2024).

Normatively, the concept of *sita umum* (general seizure) under Indonesian bankruptcy law is delineated with clear boundaries, confined exclusively to the debtor's assets. Law Number 37 of 2004 explicitly defines bankruptcy as the general seizure of the entire estate of the bankrupt debtor, which is subsequently administered by the curator. This provision not only specifies the object of the *sita umum* but also underscores the collective execution mechanism inherent in bankruptcy, oriented toward the debtor's patrimonium.

Article 21 extends the temporal scope of *sita umum*, yet it does not alter the subject matter's limits. Consequently, such expansion applies solely to the timing of asset acquisition, not to the ownership subject itself. Systematically, therefore, assets belonging to third parties fall outside the bankrupt estate (*boedel pailit*), unless a specific legal basis justifies their inclusion.

Challenges arise in practice, where interpretive tendencies have emerged to broaden the reach of *sita umum* to encompass third-party assets, particularly in cases involving personal guarantees. This approach risks blurring the demarcation between the debtor's liability and that of third parties, thereby conflicting with the normative framework established by statute. Thus, divergent interpretations of the *sita umum*'s boundaries transcend mere technical issues; they signal underlying instability in norm application, ultimately undermining legal certainty.

SEMA Number 2 of 2024 represents a tangible effort by the Supreme Court to harmonize legal interpretations through its chamber formulations. In the bankruptcy context, this SEMA provides normative clarification that a personal guarantor is liable only for the specific debts they have guaranteed, and third-party assets cannot be incorporated into the bankrupt estate (*boedel pailit*) without valid evidentiary grounds. This formulation carries direct implications for the construction of judges' *ratio decidendi*. In bankruptcy cases, judges must navigate the boundaries between debtor and third-party assets. Here, SEMA serves as a reference that narrows previously expansive interpretive discretion.

The influence of SEMA lies not in creating new norms, but in furnishing an argumentative framework that judges can employ in their legal reasoning. In other words, it guides the structure of legal logic without formally altering applicable norms. This effect manifests in the growing caution observed in court decisions regarding the extension of *sita umum* to third-party assets. SEMA urges judges to return to statutory normative boundaries while offering interpretive justification that bolsters decision consistency. Thus, SEMA can be positioned as a practical source of law operating at the level of argumentation rather than formal normativity. This role proves particularly significant in commercial courts, where interpretive consistency directly impacts legal certainty and economic transaction stability.

The mapping of key court decisions is essential to empirically and juridically demonstrate the research problem statement and to illustrate the contribution of SEMA toward judicial consistency. The following table presents a synthesis of pivotal cases reflecting the interpretative dynamics of general seizure:

Case / Decision	Core Issue	Judicial Reasoning (Simplified)	Research Relevance
Supreme Court Decision No. K/Pdt.Sus-Pailit/2019(PT Sinarlestari Ultrindo)	Whether third-party assets used as collateral can be treated as part of the curator's management/liquidation.	The court argued that the curator's management encompasses assets in the debtor's name as well as third-party assets	Demonstrates the "expansion" of general seizure ( <i>boedel</i> ) into third-party assets (the core problem).

Case / Decision	Core Issue	Judicial Reasoning (Simplified)	Research Relevance
PT Vteh Mold Indonesia Case (No. 30/Pdt.Sus-Gugatan Lain-Lain/2019 jo. MA No. 376 K/Pdt.Sus-Pailit/2020)	The status of collateral not owned by the bankrupt debtor.	serving as collateral for the bankrupt debtor's debts. It was held that when the collateral (e.g., certificates) does not belong to the debtor but to a third party, it cannot be included in the bankruptcy estate.	Exemplifies the "limitation" of <i>boedel</i> to the debtor's actual property; highlights conflicting interpretations with other cases.
District Court Decision No. 24/Pdt.Sus-Gugatan Lain-Lain/2021 (Anthony Sumitro Rahardjo v. PT Asiapac Pancamakmur Abadi Curator Team)	Third-party opposition ( <i>Gugatan Lain-lain</i> ) to exclude personal assets from the <i>boedel</i> .	Practice literature notes the existence of the <i>Gugatan Lain-lain</i> mechanism to challenge curator actions that incorporate third-party assets into the estate.	Illustrates the legal protection path for third parties and how judges construct <i>ratio decidendi</i> in curator vs. third-party disputes.
Supreme Court Decision No. 476 K/Pdt.Sus-Pailit/2022 (Referenced in practice literature)	The validity of curators incorporating third-party guarantor assets (Encumbrance Rights/HT) into the <i>boedel</i> .	Practice articles describe a reversal at the cassation level: the curator's action was deemed valid when a third party/director had pledged assets as a guarantor for the bankrupt company.	Underscores the complexity of third-party collateral relations with the bankruptcy estate and the urgency of SEMA 2/2024 guidelines.

In the case of PT Sinarlestari Ultrindo, the Supreme Court demonstrated an expansionist interpretation of the bankruptcy estate. The core legal question was whether assets held by a third party, which had been pledged as collateral for the debtor's debt, could be managed and liquidated by the curator.

The judge's *ratio decidendi* in this instance prioritized the principle of debt repayment utility. The court argued that since the assets were fundamentally tied to the debtor's financial obligations through a security interest, they should be treated as part of the collective execution process in bankruptcy. This decision, while protecting the interests of the secured creditor, created a "slippery slope" where the legal boundary between the debtor's patrimonium and third-party ownership became blurred. From a normative perspective, this expansion challenges the strict wording of Article 21 of Law No. 37/2004, which limits seizure to the debtor's own assets

Conversely, in the PT Vteh Mold Indonesia case, the judiciary adopted a restrictive and formalistic approach. The court emphasized that the validity of ownership (legal title) is the absolute threshold for inclusion in a bankruptcy estate. The *ratio decidendi* here

was built on the premise that a curator's authority is derivative; they cannot possess more rights over an asset than the debtor originally held. Therefore, if a certificate of ownership is in the name of a third party, that asset is legally "immune" from the general seizure of the debtor's estate, regardless of its status as collateral. This case serves as a perfect example of the Conflict of Interpretation—where one court sees collateral as a reason for inclusion, another sees third-party title as a reason for exclusion

The dualism presented above creates a "lottery of justice" for third parties and curators alike. SEMA 2/2024 intervenes as a standardizing probative test. It provides a bridge between these two extremes by establishing a rebuttable presumption; The Default Rule: Assets titled to third parties are presumed to be outside the *boedel*. The Burden of Proof: The curator must provide "valid evidentiary grounds"—such as proof of sham transactions or debtor funding to overcome this presumption.

By incorporating SEMA as a justificatory tool, judges can now structure their reasoning more consistently: starting with the presumption of non-inclusion and only moving to inclusion if specific material facts are proven. This systematic approach significantly reduces the disparity in rulings and strengthens the overall legal certainty in Indonesian bankruptcy proceedings

Analytically, the aforementioned dualism often hinges on specific "material facts" that judges deem decisive. Practitioners exemplify several triggering facts that may lead to third-party assets being "proven otherwise" (e.g., assets funded by the debtor, recorded as company assets, or rights already transferred). Consequently, SEMA No. 2 of 2024 can be interpreted as an effort to standardize the "probative test": the default position is non-*boedel*, with exceptions only granted if specific evidentiary requirements are met.

In the *ratio decidendi* section, it is crucial to explain that judges do not merely "quote" SEMA, but utilize it as a justificatory tool. SEMA provides concise legal propositions that are easily integrated into the structure of the judicial syllogism: material facts → legal norm → ruling (*amar*). The conceptualization of *ratio decidendi* as a "legal proposition deciding a case within the context of material facts" is further supported by legal reasoning literature.

The integration of Supreme Court Circular Letters (SEMA) into judicial practice in Indonesia represents a unique phenomenon within a civil law system. Although SEMA is technically an internal administrative instrument, the current judicial landscape shows that judges consistently acknowledge and apply SEMA formulations as a manifestation of the Supreme Court's official stance. This recognition is not merely a bureaucratic adherence but a strategic judicial response to ensure that the law remains functional in the face of complex legal dynamics and the pursuit of substantive justice

In many bankruptcy cases, statutory provisions such as Law Number 37 of 2004 are found to be insufficient in addressing modern commercial complexities, particularly regarding the intersection of debtor assets and third-party rights. When judges encounter such normative gaps, they do not remain passive. Instead, they engage in legal discovery (*rechtsvinding*) by treating SEMA Number 2 of 2024 as a reliable interpretive compass. By

incorporating SEMA into their *ratio decidendi*, judges effectively prevent a "denial of justice" (*recht weigering*) that might otherwise occur due to ambiguous legislation

The factual use of SEMA in court rulings serves a critical function in promoting consistency across the judiciary. Before the issuance of recent chamber formulations, commercial courts often produced contradictory decisions on the scope of general seizure, leading to a "lottery of justice" for creditors and third-party owners. The practice of explicitly citing SEMA in judicial considerations reflects a collective commitment by judges to harmonize legal interpretations. By aligning individual decisions with the Supreme Court's centralized guidelines, the judiciary reinforces the principle of equality before the law, ensuring that similar bankruptcy cases are treated with predictable and standardized legal reasoning

The judicial recognition of SEMA also exemplifies a shift toward a more progressive judicial orientation. While a strict positivist approach might limit a judge to the literal text of bankruptcy statutes, the application of SEMA allows for a more nuanced protection of third parties who have acted in good faith. This practice aligns with Gustav Radbruch's theory of justice, where the *ratio decidendi* seeks a delicate balance between the certainty of written codes and the necessity of achieving a fair outcome in concrete cases. Consequently, SEMA has evolved into a practical source of law (*bron van het recht*) that provides judges with the necessary justificatory tools to reach decisions that are both legally sound and socially just

Ultimately, the consistent reliance on SEMA in high-profile bankruptcy adjudications underscores its role as a vital component in shaping robust legal logic. Judges utilize SEMA's concise legal propositions to build a structured syllogism where material facts are connected to normative guidelines, leading to a definitive and defensible ruling. This indicates that in the modern Indonesian context, the authority of the law in the courtroom is no longer confined to formal statutes alone but is significantly bolstered by the practical, responsive, and harmonizing force of Supreme Court Circular Letters.

## Discussion

The findings of this study confirm that *Surat Edaran Mahkamah Agung (SEMA)*, particularly SEMA Number 2 of 2024, plays a significant role in shaping the *ratio decidendi* of commercial court judges in interpreting the scope of general seizure in bankruptcy cases. Although SEMA does not formally occupy a position within the hierarchy of statutory regulations, in practice it functions as an interpretive reference used by judges to address normative ambiguities, especially in determining the limits of general seizure. This directly responds to the research problem by demonstrating that SEMA has evolved beyond an administrative instrument into a substantive guideline influencing judicial reasoning (Kiky, A. A., Sihabudin, Widhiyanti, 2025).

From the perspective of Gustav Radbruch's theory of justice, these findings can be interpreted as reflecting judicial efforts to balance legal certainty, justice, and utility within their decisions. When legal norms are ambiguous or open to multiple interpretations, judges tend to rely on SEMA to enhance legal certainty. However, in certain cases, judges may depart from SEMA in favor of achieving substantive justice, indicating that value-based

considerations remain central in the formation of *ratio decidendi* (Wahyudin, M. N. H., Hakim, U. L., Sitorus, C. S., Mahipal, Asrun, 2025). This demonstrates the dynamic interaction between legal positivism and progressive legal approaches within Indonesian judicial practice (Usada, A., Gusti, I., Handayani, A. K., Karjoko, 2021).

When compared with previous studies, the results of this research are consistent with findings that highlight the active role of judges in legal discovery to resolve normative gaps and uncertainties (Aditya, 2023). The study also aligns with prior research demonstrating inconsistencies in judicial decisions due to differing interpretations of legal provisions (Amirudin, A., Fidhayanti, 2025). However, this research extends existing literature by identifying *SEMA* as a contributing factor to both consistency and inconsistency in judicial decisions, depending on how it is applied by judges. At the same time, these findings diverge from studies that argue *SEMA* lacks significant normative influence, as this research demonstrates its practical impact in judicial reasoning (Kesuma, A. Y., Mahmudah, 2024).

The primary scholarly contribution of this study lies in reinforcing the argument that sources of law in judicial practice are not limited to formal statutory norms but also include practical interpretive instruments such as *SEMA*. This research contributes conceptually by expanding the understanding of legal source dynamics within a civil law system that demonstrates flexibility in practice. It also contributes practically by emphasizing the role of *SEMA* in promoting consistency in judicial decisions and strengthening legal certainty in bankruptcy cases (Chariansyah, 2025). In this regard, *SEMA* may be understood as a form of soft law with significant influence in judicial processes despite its non-binding formal status.

Nevertheless, this study has several limitations that must be acknowledged. First, the research relies on a normative juridical approach based on secondary legal materials and judicial decisions, without incorporating direct empirical perspectives from judges or legal practitioners. Second, limitations in accessing all relevant commercial court decisions may affect the comprehensiveness of the analysis regarding variations in *ratio decidendi*. Third, the focus on bankruptcy law may limit the generalizability of findings to other areas of law where *SEMA* also functions as an interpretive guideline (Budiman, F. C., Sudarwanto, A., 2026).

The implications of this study suggest the need to strengthen the normative position of *SEMA* within the Indonesian legal system, either through clearer recognition in statutory frameworks or through improvements in its substantive content to ensure alignment with higher legal norms. For judicial practitioners, the findings highlight the importance of consistently applying *SEMA* as an interpretive reference to reduce disparities in decisions and enhance legal certainty. Future research is recommended to adopt empirical approaches to explore how judges perceive and utilize *SEMA* in decision-making processes, as well as to extend the analysis to other legal fields to gain a more comprehensive understanding of its role within the broader judicial system (Mutsaniyah, M., Alyaa, 2025).

## Conclusion

This study demonstrates that *Surat Edaran Mahkamah Agung (SEMA)*, particularly *SEMA* Number 2 of 2024, plays a significant role in influencing the formation of the ratio decidendi of commercial court judges in interpreting the scope of general seizure in bankruptcy cases. Although *SEMA* does not formally belong to the hierarchy of statutory regulations, in judicial practice it functions as an interpretive reference used by judges to fill legal gaps and resolve normative ambiguities. The findings also reveal variations in judicial approaches, where some judges rely on *SEMA* to uphold legal certainty, while others prioritize substantive justice considerations. Accordingly, *SEMA* contributes to shaping judicial reasoning patterns that affect both the consistency and disparity of decisions in bankruptcy cases.

In that context, *SEMA* Number 2 of 2024 serves as an interpretive guideline that shapes the formation of ratio decidendi for commercial court judges, particularly in clarifying the demarcation between debtor assets and third-party assets. Although *SEMA* falls outside the hierarchy of legislation, in judicial practice it functions as a practical source of law employed to harmonize interpretations and promote consistency in rulings.

Consequently, the existence of *SEMA* signals a shift in its role—from an internal administrative instrument to an interpretive reference that contributes to judges' law-finding processes. This demonstrates that in commercial court practice, *SEMA* exerts tangible influence on the development of ratio decidendi and reinforces legal certainty in bankruptcy cases.

From a theoretical perspective, this study broadens the understanding of the dynamics of legal sources within the Indonesian legal system by demonstrating that judicial practice is not solely dependent on formal legal norms but also incorporates practical interpretive instruments. From a practical standpoint, the findings emphasize the importance of *SEMA* in promoting consistency in judicial decisions and strengthening legal certainty, particularly in determining the boundary between the assets of the bankrupt debtor and those of third parties. This contribution provides a foundation for developing a more adaptive approach to understanding the relationship between written norms and judicial interpretation.

The implications of this study highlight the need to strengthen both the position and substantive quality of *SEMA* so that it can function more effectively as an interpretive guideline in judicial practice. Furthermore, future research is encouraged to adopt empirical approaches to explore judges' perspectives and practices in utilizing *SEMA* in decision-making processes, as well as to extend the analysis to other areas of law to achieve a more comprehensive understanding of its role within the Indonesian judicial system.

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