

Special Report: The Best of Hotman Paris

1 September 2014

Indonesian Debtors' Nuclear Option



Part of the **MERGERMARKET GROUP**

www.capitalprofile.com

Sales
Christophe Barel
+852 9613 6535
christophe.barel@capitalprofile.com

Editorial
Ilya Garger
+852 2158 9610
ilya.garger@capitalprofile.com

Hotman Paris: Indonesian Debtors' Nuclear Option

No one embodies the hazards of investing in Indonesia better than Hotman Paris Hutapea, the flamboyant corporate lawyer at the center of the country's most notorious bankruptcy cases. Loved by local tycoons, feared by foreign creditors and respected by lawyers who marvel at his legal sleight of hand even as they question his methods, Hotman has parlayed his courtroom success and colorful persona into national celebrity. "If I say I'm a clean lawyer, I'll be a hypocrite," he told the New York Times in 2010. Capital Profile presents a round-up of his most illustrious clients and memorable cases:

Name	Company	
Widjaja	Asia Pulp & Paper	Hotman Paris is best known for representing the Widjaja family's Asia Pulp & Paper (APP), which defaulted on more than USD 13bn of debt in 2001. After creditors filed a claim in New York seeking repayment of a USD 500m bond issued by APP subsidiary Indah Kiat, the company sued bondholders, underwriters and the trustee in Indonesia, calling for the bond to be declared invalid and seeking damages. Hotman argued that the commonly-used issuing structure was illegal under Indonesian law. The local court ruled in APP's favor and the Supreme Court upheld the ruling in 2006, causing an international furor. The Supreme Court reversed its ruling in 2008. Hotman told the Wall Street Journal in 2004 that creditors who had bought APP's debt at a discount were "greedy" to demand repayment at par. "They came after us with a pistol, so I've wiped them out with nuclear weapons," he said.
Setiadi	Davomas Abadi	Hotman represented Setiadi family-owned cocoa processor Davomas Abadi in multiple debt restructurings, most famously in 2000 when previously unknown creditors emerged and backed a restructuring plan proposed by the company but opposed by original creditors. The Indonesian court controversially accepted the new creditors' claims, even after lawyers for the existing creditors presented evidence the claims were not authentic. The plan called for Davomas to repay debt over 16 years, with a six-year grace period. Hotman also represented Davomas in its contentious 2009 debt restructuring.
Riady	Lippo Group	Hotman represented the Riady family-controlled Lippo Group in lawsuits against Wal-Mart and Malaysia's Astro Group. He was Lippo Group's lawyer when it sued Wal-Mart for over USD 100m in 1998, in a case that was eventually resolved via arbitration in San Francisco. In 2012, Lippo Group was ordered by the Singapore International Arbitration Court to pay Astro Group damages related to a failed JV. Lippo appealed to the Singapore High Court, which upheld the arbitration ruling as Lippo failed to appeal in time. However, the Jakarta court and Indonesian Supreme Court refused to enforce the arbitration ruling.
Pangestu	Tri Polyta Indonesia (Chandra Asri Petrochemical)	Hotman represented Tri Polyta Indonesia (now part of Chandra Asri Petrochemical), controlled by Prajogo Pangestu, in its lawsuit against the creditors and underwriters of its USD 185m bond due 2003. An Indonesian court ruled in 2004 to annul the bond, after Hotman argued creditors and underwriters had acted illegally by creating a special financing vehicle in the Netherlands. The underwriters' legal representative, Todung Mulya Lubis, argued that the issuing structure was in line with inter-national practices. In 2006, Hotman represented Prajogo in a dispute with Henry Pribadi over a stake in Tri Polyta.
Gondokusumo	Dharmala Agrifood	Hotman represented the Gondokusumo family's Dharmala Agrifood against a bankruptcy claim by International Finance Corp, ING Indonesia and Bank Niaga for breaching a derivative contract and failing to repay loans, according to press reports. The Indonesian Supreme Court in 1999 upheld a decision in favor of Dharmala deeming the debt was not "due and payable" despite payments having been missed. However, the Supreme Court reversed its ruling upon judicial review, and declared Dharmala bankrupt. The Jakarta Post cited Hotman as saying that it was the first case he had lost in five years.
Tanoesoedibjo	Mobile-8 Telecom	Hotman's sister Duma Hutapea was retained in 2009 by Mobile-8 Telecom, then part of Hary Tanoesoedibjo-controlled MNC Group, when Mobile-8 defaulted on its USD 100m bond after failing to make a mandatory offer triggered by a change of control. The debt was later acquired by Widjaja family-controlled entities at a steep discount and converted to equity. Hotman has represented MNC Group in its dispute with Suharto's daughter Siti Hardiyanti "Tutut" Rukmana over a stake in Televisi Pendidikan Indonesia (TPI). He also represented the predecessor of MNC's media arm Global Mediacom, Bimantara Citra, when it was controlled by Suharto's son Bambang Trihatmodjo.
Atmadja	Mayora Indah	Hotman represented Atmadja family-controlled Mayora Indah in its lawsuit against Bankers Trust International (BTI) in Jakarta in 1999, according to press reports. The company sued BTI for allegedly selling it derivative contracts without providing sufficient notice of the risk. BTI's lawyer unsuccessfully requested for the judge to be replaced, the Jakarta Post reported. BTI took the case to the London Court of International Arbitration (LCIA), which ruled in its favor, but the Jakarta court overturned the LCIA ruling, prompting an appeal by BTI. The Supreme Court upheld the lower court's ruling in 2000 and again in 2003.
Jusuf	Makindo Group	Hotman represented Gunawan Jusuf's Makindo Group in a dispute with Salim Group subsidiary Mekar Perkasa relat-ed to Makindo's purchase of Sugar Group Companies from the Indonesian Bank Restructuring Agency (IBRA). Sugar Group, originally part of the Salim Group, had been pledged to IBRA to settle debt. Makindo claimed that Mekar Perkasa had improperly transferred assets of Sugar Group to Salim-affiliated companies. Mekar Perkasa president Phiong Philipus Darma was named as a suspect, and fled Indonesia after being summoned by police. Hotman also accused the Salim Group's lawyer Todung Mulya Lubis of conflict of interest in the dispute, resulting in Lubis being disbarred.