

The par condicio creditorum rule: Myth or reality of bankruptcy? The historical origins of the rule and its expression in current bankruptcy law

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Abstract

the paper proposes a reflection on the rule of equality of the creditors in order to verify what is myth or reality about it in the context of the current bankruptcy law. For this purpose, he undertakes a study of the origins of the rule in Rome in order to unravel the dogmatic context in which he was born, concluding that the rule par condicio creditorum was not established as a rule of equalization of credits, but rather as an assurance similar opportunities for creditors in the insolvent debtor's contest, by eliminating the rule prior in tempore, potior in iure. Assuming the validity of this premise, the author argues that the rule is not a myth but a reality that, with specific exceptions for certain creditors and in certain collective proceedings, receives numerous recognitions in the bankruptcy law and in the judgments of the courts.

Author keywords

Bankruptcy

Equality of creditors

Origin

Par condicio creditorum

Validity