

SURAT PERNYATAAN KERELAAN DARI JANDA DALAM PERISTIWA TURUN WARIS TERHADAP HARTA BAWAAN PEWARIS

(Studi Kasus di Kantor Pertanahan Kabupaten Sleman dan Kabupaten Bantul Daerah Istimewa
Yogyakarta)

INTISARI

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Penelitian ini bertujuan untuk mengetahui dan menganalisis dasar pertimbangan Kantor Pertanahan Kabupaten Sleman dan Bantul mewajibkan surat pernyataan kerelaan dari janda dalam peristiwa turun Waris terhadap harta bawaan Pewaris serta kedudukan Surat Pernyataan kerelaan dari janda ditinjau dari hukum kewarisan Islam.

Penelitian ini termasuk dalam jenis penelitian hukum normatif yang didukung dengan data dari wawancara. Penelitian ini berfokus pada kewajiban seorang janda untuk menandatangani surat kerelaan tidak menerima harta warisan. Asas individual dalam KHI digunakan untuk menjadi salah satu teori pada pembawaan. Studi kepustakaan dilakukan untuk mendapatkan data sekunder termasuk menggunakan bahan hukum primer dan sekunder. Hasil penelitian di analisis dan disajikan secara deskriptif.

Berdasarkan hasil penelitian dapat disimpulkan bahwa (1) Kantor Pertanahan Kabupaten Sleman dan Bantul menggunakan hukum adat sebagai dasar pembuatan peraturan mengenai proses turun waris. Kantor Pertanahan Kabupaten Sleman dan Bantul mewajibkan adanya surat pernyataan kerelaan tidak menerima bagian waris dari janda dalam proses turun waris terhadap harta bawaan Pewaris. Tidak adanya surat kerelaan tersebut dapat menyebabkan proses turun waris terhadap harta bawaan, tidak dapat dilanjutkan. (2) Kedudukan surat pernyataan kerelaan dari janda tidak menerima bagian waris terhadap harta bawaan Pewaris ditinjau dari hukum kewarisan Islam bertentangan dengan asas ijbari dan asas individual. Apabila janda merelakan tidak menerima bagian atas harta bawaan pewaris maka diperbolehkan berdasarkan pasal 183 Kompilasi Hukum Islam yang mengaskan bahwa ahli waris dapat bersepakat melakukan perdamaian dalam pembagian harta warisan, setelah masing-masing menyadari bagiannya. Oleh karenanya apabila Janda tidak mau merelakan bagiannya terhadap harta bawaan Pewaris, seharusnya proses turun waris tetap harus dilanjutkan.

Kata Kunci : Janda, Surat Kerelaan, Turun Waris, Kantor Pertanahan, Asas Ijbari

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STATEMENT OF WILLINGNESS FROM THE WIDOW IN THE EVENT OF INHERITANCE REGARDING THE HEIR'S PROPERTY

ABSTRACT

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This research aims to find out and analyze the basic considerations of the Sleman and Bantul Regency Land Offices in requiring a statement of consent from the widow in the event of Inheritance regarding the Heir's Assets as well as the position of the Statement of Consent from the widow in terms of Islamic inheritance law.

This research is included in the type of normative legal research which is supported by data from interviews. This research focuses on the obligation of a widow to sign a letter of intent not to receive inheritance. The individual principle in KHI is used as a theory in preaching. A literature study was carried out to obtain secondary data including using primary and secondary legal materials. The research results were analyzed and presented descriptively.

Based on the research results, it can be concluded that (1) The Sleman and Bantul Regency Land Offices use customary law as the basis for making regulations regarding the inheritance process. The Sleman and Bantul Regency Land Offices require a statement of willingness not to accept the inheritance portion of the widow in the process of inheriting the inheritance of the heir. The absence of a letter of consent can cause the inheritance process for inherited assets to not be able to continue. (2) The status of the widow's statement of willingness not to receive the inheritance portion of the inheritance of the heir's inheritance in terms of Islamic inheritance law is contrary to the principle of *ijbari* and individual principles. If the widow agrees not to receive a share of the heir's inheritance, this is permissible based on article 183 of the Compilation of Islamic Law, which stipulates that the heirs can agree to make peace in dividing the inheritance, after each of them is aware of their share. Therefore, if the widow does not want to give up her share of the inheritance of the heir, the inheritance process should still be continued.

Keywords: Widow, Letter of Consent, Inheritance, Land Agency, Asas Ijbari

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