

PELAKSANAAN HIBAH KEPADA BUKAN AHLI WARIS MENURUT HUKUM ADAT BALI DI KOTA DENPASAR

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INTISARI

Tujuan dari penelitian ini adalah untuk mengetahui pelaksanaan hibah kepada bukan ahli waris menurut hukum adat Bali yaitu mengenai tanggung jawab penerima hibah yang bukan ahli waris kepada si pewaris serta peranan pejabat umum dalam proses hibah.

Penelitian ini merupakan penelitian sosiologis yuridis yaitu penelitian terhadap hukum yang berlaku dalam masyarakat khususnya mengenai pelaksanaan hibah kepada bukan ahli waris menurut hukum adat Bali. Tiga puluh (30) responden dipilih secara non random sampling dengan purposive snow ball dari masyarakat adat Desa Padangsambian Kaja, Kelurahan Ubung, Desa Penatih Dangin Puri dan Kelurahan Dangin Puri yaitu orang yang mengalami penghibahan kepada bukan ahli waris, baik sebagai pemberi maupun penerima hibah.

Hasil penelitian menunjukkan bahwa tanggung jawab penerima hibah yang bukan ahli waris terhadap si pewaris menurut hukum adat Bali hanya bersifat moril yaitu berkewajiban memelihara harta benda yang diterimanya, merawat pewaris karena usianya tua dan sakit-sakitan, membantu pelaksanaan upacara pengabenan jika nanti si pewaris meninggal dunia. Peranan pejabat umum ditingkat desa (kelian/kepala dusun) dalam proses hibah sebagai saksi/pengesah atas surat pernyataan yang dibuat oleh para pihak selanjutnya disahkan ke kepala desa dan camat. Surat pernyataan ini berfungsi sebagai alat bukti tertulis bagi masyarakat setempat sehingga dipersamakan dengan akta otentik sesuai pasal 1868 KUH Perdata. Selanjutnya menghadap PPAT untuk dibuatkan akta hibah yang digunakan dalam proses peralihan hak sesuai UU Nomor 4 tahun 1996.

Kata kunci : Hibah - Bukan Ahli Waris - Menurut Hukum Adat Bali.

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BEQUEATHING BEQUEST TO THE NON-LINEAL HEIRS IN THE CUSTOMARY LAW OF BALI IN DENPASAR

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Abstract

The objective of the research was to find out about the process of bequest to the non-lineal heirs according to the customary law of Bali, comprising responsibilities an inheriting non-lineal heir hold toward the predecessor and the role of public officials during this process.

This is a social-juridical research that required an analysis on the values present in the community especially those concerning the bequeathing of legacy to the non-lineal heirs according to the customary law of Bali. Thirty (30) respondents were non-randomly chosen in the purposive snowball method for their association in some cases of bequeathing bequest to the non-lineal heirs, either as the predecessors or the heirs. They are local residents of the Padangsemblian Kaja, Ubung, Penatih Dangin Puri and Dangin Puri villages.

The result of the research showed that the responsibilities held by a non-lineal heir toward the predecessor are merely moral. These comprise the responsibility of preserving the obtained bequest, tending the predecessor for his old age and waning health and being of assistance in the procession of *ngaben* (incineration of corpse) later when he dies. A public official in the rural community level (*kelian*/head of village) shall act as a witness or an approving party for the pronouncement document made by all parties involved that shall later be legalized together by the head of village and the head of district. This document is widely accepted as written evidence by the society thus is as valid as authentic record according to article 1868 of Civil Codes. The parties shall then come together before the PPAT for the making of bequest document used for the transfer of right according to act no. 4 of the year 1996.

Keywords: bequest - non-lineal heirs - the customary law of Bali

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