

**ANALISIS *LEGAL STANDING* BAGI ISTRI KEDUA PADA  
PERKAWINAN POLIGAMI TANPA IZIN DARI PENGADILAN AGAMA  
DALAM PEMBAGIAN HARTA WARIS  
(STUDI PUTUSAN PENGADILAN AGAMA NO.  
331/PDT.G/2016/PA.WTP, PUTUSAN PENGADILAN TINGGI AGAMA  
NO. 44/PDT.G/2017/PTA.MKS, PUTUSAN MAHKAMAH AGUNG NO. 620  
K/AG/2017, DAN PUTUSAN MAHKAMAH AGUNG NO. 29 PK/AG/2019)**

oleh

**Bayu Purnomo Aji\* dan Yulkarnain Harahab\*\***

**INTISARI**

Penelitian ini bertujuan untuk mengetahui dan menganalisis dasar pertimbangan hakim dalam menentukan *legal standing* bagi istri kedua pada perkawinan poligami tanpa izin dari Pengadilan Agama dalam pembagian harta waris dan untuk mengetahui dan menganalisis pembagian harta bersama dan harta waris antara kedua istri sebagai ahli waris pada perkawinan poligami tanpa izin dari Pengadilan Agama.

Jenis penelitian dalam penelitian hukum ini adalah penelitian hukum normatif. Cara pengumpulan data yang dilakukan dalam penelitian hukum ini adalah kepustakaan dan wawancara. Analisis data dalam penelitian hukum ini menggunakan metode kualitatif.

Hasil penelitian menunjukkan pertimbangan Hakim pada Putusan No. 331/Pdt.G/2016/PA.Wtp didasarkan pada Pasal 56 ayat (3) KHI, istri kedua tidak mempunyai *legal standing* karena perkawinan Pewaris dengan istri kedua tanpa izin dari Pengadilan Agama. Putusan No. 44/Pdt.G/2017/PTA.Mks membatalkan putusan sebelumnya karena gugatan kabur dan posita serta petitum tidak berkesesuaian dengan Pasal 94 KHI. Pertimbangan Hakim pada Putusan No. 620 K/AG/2017 membatalkan putusan banding dan mengabulkan sebagian gugatan, istri kedua mempunyai *legal standing* karena tidak ada gugatan pembatalan perkawinan Pewaris dengan istri kedua. Putusan No. 29 PK/AG/2019 menolak permohonan peninjauan kembali karena tidak terdapat kekhilafan Hakim pada putusan kasasi. Pembagian harta bersama antara kedua istri pada Putusan No. 620 K/AG/2017 adalah 1/3 milik istri pertama, 1/3 milik istri kedua, dan 1/3 milik Pewaris yang merupakan harta waris. Pembagian harta waris antara kedua istri sesuai dengan Pasal 180 KHI yaitu mendapat 1/8, sehingga masing-masing istri mendapatkan 1/16 dan sisanya dibagi kepada anak-anak sesuai dengan Pasal 176 KHI, yaitu anak laki-laki mendapat bagian 2:1 dengan anak perempuan.

Kata Kunci: Poligami, Harta Bersama, Harta Waris

---

\* Tempel, RT. 03/RW. -, Baturetno, Banguntapan, Bantul, Daerah Istimewa Yogyakarta

\*\* Jl. Sosio Yustisia Bulaksumur No.1, Caturtunggal, Depok, Sleman, Daerah Istimewa Yogyakarta 55281.

***ANALYSIS OF LEGAL STANDING FOR THE SECOND WIFE IN A  
POLYGAMOUS MARRIAGE WITHOUT PERMISSION FROM THE  
RELIGIOUS COURT IN THE DISTRIBUTION OF INHERITANCE  
PROPERTY***

***(STUDY OF RELIGIOUS COURT DECISION NO. 331/PDT.G/2016/PA.WTP,  
HIGH COURT DECISION NO. 44/PDT.G/2017/PTA.MKS, SUPREME  
COURT DECISION NO. 620 K/AG/2017, AND SUPREME COURT  
DECISION NO. 29 PK/AG/2019)***

by

**Bayu Purnomo Aji\* and Yulkarnain Harahab\*\***

***ABSTRACT***

*This research aims to analyze the basis of the judge's consideration in determining the legal standing of the second wife in a polygamous marriage without permission from the Religious Court in the distribution of inheritance property and to find out and analyze the distribution of joint property and inheritance property between the two wives as heirs in a polygamous marriage without permission from the Religious Court.*

*Research in this legal research is normative legal studies. The method of data collection carried out in this legal research is literature and interviews. Data analysis in this legal research uses qualitative methods.*

*Research findings indicate that the Judge's considerations in Decision No. 331/Pdt.G/2016/PA.Wtp were based on Article 56 paragraph (3) of the KHI, with the second wife did not have legal standing because the marriage to the Deceased was without the permission of the Religious Court. Decision No. 44/Pdt.G/2017/PTA.Mks overturned the previous decision due to the lawsuit being unclear and the statements of petita and petitum not aligning with Article 94 of the KHI. The Judge's considerations in Decision No. 620 K/AG/2017 overturned the appellate court's decision and partially granted the lawsuit, with the second wife having legal standing since there was no lawsuit for the annulment of the marriage between the Deceased and the second wife. Decision No. 29 PK/AG/2019 rejected the petition for judicial review because there was no judicial error in the cassation decision. The division of joint property between the two wives in Decision No. 620 K/AG/2017 was 1/3 for the first wife, 1/3 for the second wife, and 1/3 belonging to the Deceased, which constituted the inheritance estate. The division of the inheritance property between the two wives was in accordance with Article 180 of the KHI, which grants them 1/8, resulting in each wife receives 1/16, and the remaining is distributed among the children according to Article 176 of the KHI, with sons receiving a share in the ratio of 2:1 compared to daughters.*

***Keywords: Polygamy, Joint Property, Inheritance Property***

---

\* Tempel, RT. 03/RW. -, Baturetno, Banguntapan, Bantul, Daerah Istimewa Yogyakarta

\*\* Jl. Sosio Yustisia Bulaksumur No.1, Caturtunggal, Depok, Sleman, Daerah Istimewa Yogyakarta 55281.