

PERTIMBANGAN HAKIM DALAM PEMBAGIAN HARTA BERSAMA PADA PERKARA GUGATAN HARTA BERSAMA (STUDI KASUS PERKARA NO: 549/Pdt.G/2013/PA.Wt)

Rika Rizki Hairani¹
Haniah Ilhami, S.H., LL.M.²

INTISARI

Tujuan dari Penulisan Hukum ini adalah untuk mengetahui proses pembuktian dan pertimbangan hukum yang dilaksanakan oleh majelis hakim Pengadilan Agama, dalam membagi objek sengketa harta bersama antara Penggugat, Tergugat, dan Orang Tua Tergugat dalam Putusan Pengadilan Agama Wates Nomor: 549/Pdt.G/2013/PA.Wt.

Penulisan hukum ini menggunakan jenis penelitian yuridis empiris dengan menggunakan penelitian kepustakaan dan penelitian lapangan melalui *Focus Group Discussion (FGD)*. Data diolah dengan metode deskriptif dengan menggambarkan dan memahami kasus sesuai dengan permasalahan yang diteliti.

Penulisan Hukum Ini menunjukkan bahwa proses pembuktian dalam Putusan Pengadilan Agama Wates Nomor: 549/Pdt.G/2013/PA.Wt sudah sesuai dengan peraturan perundang-undangan yang berlaku, namun terhadap pertimbangan yang dipergunakan hakim dalam membagi harta bersama tidak tepat. Dalam hal ini Penggugat tidak dapat membuktikan dalil gugatannya dan nilai 1/3 dari nilai harta bersama yang diberikan kepada orang tua tergugat tidak sesuai dengan fakta yang diajukan di pengadilan oleh para pihak.

Kata Kunci: Pembuktian, Pertimbangan Hakim, Pembagian harta bersama

¹ Mahasiswa Departemen Hukum Islam, Fakultas Hukum Universitas Gadjah Mada Yogyakarta

² Dosen Pembimbing Skripsi Departemen Hukum Islam, Fakultas Hukum Universitas Gadjah Mada Yogyakarta

JUDGE'S CONSIDERATION IN DISTRIBUTING JOINT PROPERTY ON JOINT PROPERTY LAWSUIT (Case Study of Religious Court Decision No: 549/Pdt.G/2013/PA.Wt)

Rika Rizki Hairani¹
Haniah Ilhami, S.H., LL.M.²

ABSTRACT

The objective of this Legal Paper is to identify the evidence and legal consideration implemented by Judge in Religious Court, in distributing the disputed object as Joint Property between the Plaintiff, the Defendant, and the parents of the Defendant in Wates Religious Court Decision Number: 549/Pdt.G/2013/PA.Wt.

This Legal Paper based on an empirical normative research, using the literature research method and field research through Focus Group Discussion (FGD). The data were processed through descriptive method by describing and comprehending the case clearly related to the legal problem.

This legal paper found that the evidence implemented by Judge in Religion Court Decision Number: 549/Pdt.G/2013/PA.Wt has been conducted accordingly with the current laws and regulations. However, the decision in distributing the disputed object as Joint Property was considered as less than accurate. In this case, the Plaintiff was unable to proof his statement, and the portion of 1/3 from the value of the Joint property that distributed to the Parents of Defendant was inconsistent with the facts presented in court by both parties.

Keyword : Evidence, Legal Consideration, Distribution of Joint Property

¹ Student of Islamic Law Departement, Faculty of Law Gadjah Mada University Yogyakarta

² Thesis Supervisor of Islamic Law Departement, Faculty of Law Gadjah Mada University Yogyakarta