

Tanggung jawab notaris untuk memperhatikan bagian mutlak (legitime portie) dalam pembuatan akta wasiat : studi kasus putusan Pengadilan Negeri Tangerang nomor 29/PDT.G/2010/PN.TNG = The responsibility of notary to regard the legitimate portion legitime portie in the making of testament deed a case study of tangerang district court judgment number 29/PDT.G/2010/PN.TNG

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Abstrak

[ABSTRAK

Hukum Waris Perdata menetapkan adanya dua jenis pewarisan, yaitu pewarisan berdasarkan undang-undang (pewarisan ab-intestato) dan pewarisan berdasarkan wasiat (pewarisan ad-testamento). Bagian mutlak (legitime portie) adalah bagian minimum tertentu yang tidak dapat diganggu gugat dan harus diperoleh ahli waris ab-intestaat tertentu dalam garis lurus ke atas maupun ke bawah yang biasa disebut dengan legitimaris. Namun pada prakteknya, banyak terdapat akta wasiat yang dibuat di hadapan notaris yang berisi kehendak pewaris yang melanggar bagian mutlak (legitime portie) dari para legitimaris. Padahal akta wasiat yang dibuat di hadapan notaris merupakan bentuk wasiat yang paling ideal karena dalam pembuatannya notaris dapat memberikan bimbingan dan himbauan kepada pewaris sehubungan dengan akibat-akibat yang timbul dari dibuatnya wasiat tersebut, dan notaris merupakan pejabat yang berwenang untuk membuat akta autentik sesuai dengan Undang-Undang Jabatan Notaris. Metode penelitian yang digunakan dalam tesis ini adalah yuridis normatif, yaitu penelitian kepustakaan dengan menggunakan data sekunder. Untuk lebih memahami mengenai tanggung jawab notaris untuk memperhatikan bagian mutlak (legitime portie) dalam pembuatan akta wasiat, tesis ini mengadakan studi kasus putusan Pengadilan Negeri Tangerang Nomor: 29/PDT.G/2010/PN.TNG yang mengangkat permasalahan para ahli waris dari pewaris yang menuntut pembatalan akta wasiat yang melanggar bagian mutlak (legitime portie).

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ABSTRACT

Civil Inheritance Law establishes the two types of inheritance, those are inheritance which based on the laws (inheritance ab-intestato) and inheritance which based on testament (inheritance ad-testamento). Legitimate portion (legitime portie) is particular minimum parts that is inviolable and must be obtained by the certain ab-intestaat heirs in the vertical relation with the deceased, which commonly known as legitimate heirs. However, in practice, there are many testament deeds before a notary containing the testator?s will which violate the legitimate portion (legitime portie) of the legitimate heirs. Whereas the testament

deed before a notary is the most ideal form of testament because in the making of those testament deeds notary can provide guidance and counsel about the consequences arising from the testament deeds to the testator, besides the notary is an authorized officer to make authentic deeds according to Law of Republic of Indonesia concerning Notaries. The research method used in this thesis is juridical normative, the literature research by using the secondary data. For further understanding on the responsibility of notary to regard the legitimate portion (legitime portie) in the making of testament deed, this thesis provides a case study of Tangerang District Court Judgement Number: 29/PDT.G/2010/PN.TNG about the dispute between legitimate heirs and ad-testamento heir where as the legitimate heirs demanding the cancellation of the testament deed before a notary which violate their legitimate portion (legitime portie).; Civil Inheritance Law establishes the two types of inheritance, those are inheritance which based on the laws (inheritance ab-intestato) and inheritance which based on testament (inheritance ad-testamento). Legitimate portion (legitime portie) is particular minimum parts that is inviolable and must be obtained by the certain ab-intestaat heirs in the vertical relation with the deceased, which commonly known as legitimate heirs. However, in practice, there are many testament deeds before a notary containing the testator's will which violate the legitimate portion (legitime portie) of the legitimate heirs. Whereas the testament deed before a notary is the most ideal form of testament because in the making of those testament deeds notary can provide guidance and counsel about the consequences arising from the testament deeds to the testator, besides the notary is an authorized officer to make authentic deeds according to Law of Republic of Indonesia concerning Notaries. The research method used in this thesis is juridical normative, the literature research by using the secondary data. For further understanding on the responsibility of notary to regard the legitimate portion (legitime portie) in the making of testament deed, this thesis provides a case study of Tangerang District Court Judgement Number: 29/PDT.G/2010/PN.TNG about the dispute between legitimate heirs and ad-testamento heir where as the legitimate heirs demanding the cancellation of the testament deed before a notary which violate their legitimate portion (legitime portie)., Civil Inheritance Law establishes the two types of inheritance, those are inheritance which based on the laws (inheritance ab-intestato) and inheritance which based on testament (inheritance ad-testamento). Legitimate portion (legitime portie) is particular minimum parts that is inviolable and must be obtained by the certain ab-intestaat heirs in the vertical relation with the deceased, which commonly known as legitimate heirs. However, in practice, there are many testament deeds before a notary containing the testator's will which violate the legitimate portion (legitime portie) of the legitimate heirs. Whereas the testament deed before a notary is the most ideal form of testament because in the making of those testament deeds notary can provide guidance and counsel about the

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