

Analisis Akibat Hukum Pembatalan Perkawinan Karena Status Wali Nikah Yang Tidak Sah Menurut Undang? Undang Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam (Studi Kasus Putusan Nomor 113/Pdt.G/2012/MSBna) = Analysis Of Legal Consequences Of Annulment Of Marriage Due To Invalid Status of Guardian According To The Law Number 1974 And Compilation Of Islamic Law (Case Study Of Judgment Number 113/Pdt.G/2012/MS-Bna)

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Abstrak

[ABSTRAK

Pembatalan perkawinan yang telah dilangsungkan masih banyak terjadi

dalam masyarakat, hal itu disebabkan karena perkawinan yang dilangsungkan tersebut cacat hukum.

Pembatalan perkawinan tersebut didasarkan karena adanya syarat-syarat perkawinan yang tidak dipenuhi sehingga menyebabkan perkawinan tersebut tidak sah menurut hukum yang berlaku. Salah satu contohnya

yaitu dalam putusan Pengadilan Agama Banda Aceh Nomor 113/Pdt.G/2012/Ms-Bna yang latar belakang

pengajuan pembatalan perkawinannya disebabkan karena perkawinan dilangsungkan dengan berwalikan

calon mempelai perempuan sendiri dan adanya pemalsuan identitas. Dari uraian tersebut timbulah

pertanyaan apakah putusan Pengadilan

Agama Banda Aceh Nomor 113/Pdt.G/2012/Ms-Bna bertentangan dengan Peraturan dalam

Undang?Undang Nomor 1 Tahun 1974 dan Kompilasi Hukum Islam, kemudian bagaimana status terhadap

suami isteri, harta bersama dan anak yang dilahirkan dari perkawinan yang telah dibatalkan. Untuk dapat

mencari jawaban masalah ini, penulis menggunakan metode penelitian yang bersifat yuridis normatif dengan menggunakan data sekunder yang diperoleh dari kepustakaan dan didukung dengan wawancara kepada nara

sumber. Dalam Putusan Pengadilan Agama Nomor 113/Pdt.G/2012/Ms-Bna perkawinan

dibatalkan karena adanya wali nikah yang tidak sah dan pemalsuan identitas. Berdasarkan penelitian yang

telah dilakukan terhadap dasar pertimbangan Hakim Majelis pada putusan tersebut telah tepat sesuai dengan

hukum Islam dan peraturan perundang?undangan yang berlaku khususnya mengenai perkawinan, hanya saja

hakim kurang menambahkan ketentuan Pasal 2 ayat (1) Undang?Undang Nomor 1 Tahun 1974 tentang

perkawinan untuk merujuk pada Pasal 71 huruf (e) Kompilasi Hukum Islam. Akibat hukum dari pembatalan

perkawinan yaitu segala hak dan kewajiban antara suami isteri menjadi tidak ada, dan keputusan pembatalan

tersebut tidak berlaku surut terhadap anak?anak yang dilahirkan dari perkawinan dan anak tetap menjadi

anak yang sah serta terkait harta bersama pembagiannya diserahkan kepada masing?masing pihak sesuai

dengan kesepakatan.

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ABSTRACT

Most of the marriage in the community is annulled due to invalidity. The annulment of marriage is resulting from the failure to the terms of marriage thereby making the marriage invalid according to the applicable regulation. One of the examples is judgment of Banda Aceh Religious Court Number Nomor

113/Pdt.G/2012/Ms-Bna that annulled a marriage because the guardian is the bride herself and because of

falsification of identify. From the description, there is a question, does the judgment of Banda Aceh Religious Court Number 113/Pdt.G/2012/Ms-Bna contravene the Law Number 1 Of 1974 and the Compilation of Islamic Law?, and then what is the status of the married couple, mutual property and children born from the marriage so annulled?. To answer the question, the writer uses juridical and normative research method by using secondary data from the literature supported with the interview with the resources persons. In the Judgment of the Religious Court Number 113/Pdt.G/2012/Ms-Bna, the marriage is annulled due to invalid status of the guardian and falsification of identity. The research to the consideration basis of the Council of Judges indicates that the Judgment is not in contravention of the applicable legislation, particularly that on marriage, but the judges lacks the Article 2 paragraph (1) of Law Number 1 Of 1974 on Marriage to refer to Article 71 point (e) Compilation of Islamic Law. Legal consequences of the annulment of marriage are all rights and obligations of the married couple become non-existing, and the judgment of annulment is not retroactive to the children born from the marriage and the children remain being legitimate children and the division of mutual property is submitted to the respective parties in accordance with the agreement.;Most of the marriage in the community is annulled due to invalidity. The annulment of marriage is resulting from the failure to the terms of marriage thereby making the marriage invalid according to the applicable regulation. One of the examples is judgment of Banda Aceh Religious Court Number Nomor 113/Pdt.G/2012/Ms-Bna that annulled a marriage because the guardian is the bride herself and because of falsification of identify. From the description, there is a question, does the judgment of Banda Aceh Religious Court Number 113/Pdt.G/2012/Ms-Bna contravene the Law Number 1 Of 1974 and the Compilation of Islamic Law?, and then what is the status of the married couple, mutual property and children born from the marriage so annulled?. To answer the question, the writer uses juridical and normative research method by using secondary data from the literature supported with the interview with the resources persons. In the Judgment of the Religious Court Number 113/Pdt.G/2012/Ms-Bna, the marriage is annulled due to invalid status of the guardian and falsification of identity. The research to the consideration basis of the Council of Judges indicates that the Judgment is not in contravention of the applicable legislation, particularly that on marriage, but the judges lacks the Article 2 paragraph (1) of Law Number 1 Of 1974 on Marriage to refer to Article 71 point (e) Compilation of Islamic Law. Legal consequences of the annulment of marriage are all rights and obligations of the married couple become non-existing, and the judgment of annulment is not retroactive to the children born from the marriage and the children remain being legitimate children and the division of mutual property is submitted to the respective parties in accordance with the agreement., Most of the marriage in the community is annulled due to invalidity. The annulment of marriage is resulting from the failure to the terms of marriage thereby making the marriage invalid according to the applicable regulation. One of the examples is judgment of Banda Aceh Religious Court Number Nomor 113/Pdt.G/2012/Ms-Bna that annulled a marriage because the guardian is the bride herself and because of falsification of identify. From the description, there is a question, does the judgment of Banda Aceh Religious Court Number 113/Pdt.G/2012/Ms-Bna contravene the Law Number 1 Of 1974 and the Compilation of Islamic Law?, and then what is the status of the married couple, mutual property and children born from the marriage so annulled?. To answer the question, the writer uses juridical and normative research method by using secondary data from the literature supported with the interview with the resources persons. In the Judgment of the Religious Court Number 113/Pdt.G/2012/Ms-Bna,

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