

## Aspek perjanjian perkawinan dalam pewarisan menurut kitab undang-undang hukum perdata = Aspect of the prenuptial agreement in inheritance according to Indonesian civil code

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### Abstrak

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Terbukanya suatu pewarisan adalah karena kematian. Sehingga, dengan terbukanya pewarisan maka di dalam KUHPperdata telah ditentukan siapa-siapa yang akan menjadi ahli waris. Namun, adanya perbedaan penafsiran, suatu warisan tidak didapatkan apabila di dalam suatu ikatan perkawinan telah dilaksanakan dengan suatu perjanjian perkawinan. Sehingga timbul permasalahan yaitu bagaimana pengaruh perjanjian perkawinan pisah harta antara suami dan istrinya terhadap hak mewaris serta bagaimana kedudukan hukum mewaris suami dan adik pewaris terkait sebagai ahli waris yang ditinjau dalam KUHPperdata. Terhadap permasalahan tersebut, dilakukan penelitian untuk menemukan titik terang akan siapa yang akan berhak menjadi ahli waris. Selanjutnya, penyusunan tesis ini disusun dengan metode penelitian hukum normatif, untuk mendapatkan hasil penelitian yang bersifat analisis kualitatif yaitu dengan menelaah data yang diperoleh. Akhirnya, sampailah pada hasil penelitian bahwa suatu perjanjian perkawinan mengatur pemisahan harta kekayaan selama perkawinan, dengan putusnya perkawinan akibat kematian seseorang terhadap harta kekayaan, akan adanya pewarisan dalam bentuk perpindahan kekayaan dan dalam pewarisanpun telah ditentukan siapa yang menjadi ahli waris, sehingga suatu perjanjian perkawinan tidak dapat menutup hak mewaris seorang suami. Kedudukan hukum seorang suami dan adik pewaris sebagai ahli waris telah ditentukan dengan penggolongan ahli waris yang mana golongan ahli waris terdekat menutup golongan ahli waris terjauh. Dengan demikian, karena masih adanya suami, harta peninggalan pewaris, haruslah jatuh pada golongan pertama. Disarankan bagi Notaris untuk memberi penjelasan bila ingin membuat perjanjian perkawinan.

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The opening of inheritance would be occurred due to demise. Then, it has been determined which people who will inherit and be the heirs in Indonesian Civil Code ("ICC"). However, due to a dissimilar interpretation, inheritance will not be obtained when the marriage done within a prenuptial agreement. Thereby, some issues arises such as how the effect of prenuptial agreement of split property against right of inheritance between husband and wife and how the legal standing of heirs to inherit between husband and sister-in-law which is reviewed in the Indonesian Civil Code. In regards to this issue, already doing some research to find some real information on whose has the right to become heirs. Hereinafter, This thesis composed with

normative legal research method, which is to gain a result that based on qualitative analysis in which is analyzed by collected data. Finally, it can be concluded that a prenuptial agreement arranged the separation of wealth during the marriage, with dissolution of marriage due to demise towards the person's wealth, there would be transfer of wealth in the form of inheritance and also, it's already been determined whose going to be the heirs, so that a prenuptial agreement may not closed the right of inheritance for husband. The legal standing of husband and sister-in-law as heirs have been determined by their classification, which is the closest heirs, would cancel further heirs. By this circumstances, because there's still the husband of the late wife, the property of inheritance, must be owned by the first line of classified person. Suggestion for Notary, give information before the clients want to make prenuptial agreement, The opening of inheritance would be occurred due to demise. Then, it has been determined which people who will inherit and be the heirs in Indonesian Civil Code ("ICC"). However, due to a dissimilar interpretation, inheritance will not be obtained when the marriage done within a prenuptial agreement. Thereby, some issues arises such as how the effect of prenuptial agreement of split property against right of inheritance between husband and wife and how the legal standing of heirs to inherit between husband and sister-in-law which is reviewed in the Indonesian Civil Code. In regards to this issue, already doing some research to find some real information on whose has the right to become heirs. Hereinafter, This thesis composed with normative legal research method, which is to gain a result that based on qualitative analysis in which is analyzed by collected data. Finally, it can be concluded that a prenuptial agreement arranged the separation of wealth during the marriage, with dissolution of marriage due to demise towards the person's wealth, there would be transfer of wealth in the form of inheritance and also, it's already been determined whose going to be the heirs, so that a prenuptial agreement may not closed the right of inheritance for husband. The legal standing of husband and sister-in-law as heirs have been determined by their classification, which is the closest heirs, would cancel further heirs. By this circumstances, because there's still the husband of the late wife, the property of inheritance, must be owned by the first line of classified person. Suggestion for Notary, give information before the clients want to make prenuptial agreement]