

Analisis mengenai pentingnya persetujuan para ahli waris dalam akta hibah untuk salah seorang ahli waris (studi kasus putusan Pengadilan Tinggi Agama Makassar Nomor 63/PDT.G/2012/PTA.MKS) =
Analysis about the importance of consent of heirs in the grant deed for one of the heirs (case study on religious high court of Makassar verdict Number 63/PDT.G/2012/PTA.MKS)

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Abstrak

[ABSTRAK

Hibah merupakan salah satu cara peralihan hak kepemilikan atas suatu benda. Menurut Pasal 171 Kompilasi Hukum Islam, hibah adalah pemberian suatu benda secara sukarela dan tanpa imbalan dari seseorang kepada seseorang lain yang masih hidup untuk dimiliki. Dari pengertian hibah tersebut, tidak terdapat adanya syarat mengenai diperlukannya persetujuan dari para calon ahli waris si penghibah sebelum dilakukannya penghibahan, namun hal ini sering menimbulkan sengketa pada saat kedudukan penerima hibah tersebut berubah menjadi salah seorang ahli waris dari si penghibah, hal ini terjadi karena dirasa adanya ketidakadilan oleh ahli waris lain yang merasa tindakan penghibahan tersebut berdampak pada hak mewaris mereka sebagaimana terjadi dalam sengketa hibah yang telah diputus dalam Putusan Pengadilan Tinggi Agama Makassar Nomor 63/Pdt.G/2012/PTA.MKS. Tesis ini membahas mengenai hibah dapat mengakibatkan sengketa warisan pada saat meninggalnya penghibah dan bagaimana tindakan PPAT dalam membuat akta hibah guna mencegah timbulnya sengketa warisan. Penelitian ini merupakan penelitian Yuridis Normatif dengan bentuk preskriptif analitis. Hasil penelitian menunjukkan bahwa hibah kepada salah seorang calon ahli waris penghibah tanpa persetujuan calon ahli waris lainnya dapat mencerminkan ketidakadilan dan dapat menimbulkan sengketa warisan. Untuk menghindari sengketa di kemudian hari dari akta yang dibuatnya, maka PPAT harus meminta persetujuan dari para calon ahli waris yang lain dan surat pernyataan dari penghibah.

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ABSTRACT

Grant is one of a way to transfer the ownership of an object. According to Article 171 Compilation of Islamic Law, a grant is granting an object voluntarily and without compensation from someone to someone else who is still alive to be owned. According to definition of the grant mentioned above, there is no requirement to get the approval from the candidate of heirs of the grantor before performing the grant. However, it often causes disputes when one of the grant recipients is also one of the grantor heirs at a time because it is felt injustice by

another heirs who feel the grant impacts their right to inherit as occurred in the dispute which has been decided in the verdict of Religious High Court of Makassar No. 63/Pdt.G/2012/ PTA.MKS. This study focuses on grants result on inheritance disputes when the grantor dies and how PPAT action to make the grant deed in order to prevent inheritance disputes. This research is a juridical normative research with prescriptive analytic design. Results indicate that a grant to one of the candidate of heirs of the grantor without the consent from the other candidates of heirs can reflect injustice and may inflict inheritance dispute. To avoid the disputes, PPAT must request the consent from the other candidates of heirs and statement letter of grantor, Grant is one of a way to transfer the ownership of an object. According to Article

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