

Akibat hukum pembatalan perkawinan poligami oleh isteri pertama terhadap pembagian harta bersama dan hak-hak isteri kedua : studi kasus putusan pengadilan tinggi agama Pekanbaru nomor 42/pdt.g/2017/pta.pbr = Legal consequences resulted by the annulment of polygamous marriage by the first wife towards the division of matrimonial property and the second wife's rights : case study on the verdict of Pekanbaru religious high court no. 42/pdt.g/2017/ pta.pbr

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Abstrak

Penyimpangan yang terjadi demi memenuhi keinginan suami untuk menikahi lebih dari seorang isteri, terkadang dilakukan dengan melakukan pemalsuan dokumen isteri pertama agar suami bisa menikah tanpa izin. Tesis ini membahas pembatalan perkawinan poligami dengan studi kasus Putusan Pengadilan Tinggi Pekanbaru No.42/Pdt.G/2017/ PT.Pbr yang menguatkan Putusan Pengadilan Agama Bangkinang No.532/Pdt.G/2016/PA.Bkn. Permasalahan yang dibahas adalah mengenai akibat hukum pembatalan perkawinan terhadap hak-hak isteri kedua; pembagian harta bersama dan harta warisan dengan isteri pertama selama perkawinan. Penelitian ini menggunakan metode yuridis normatif dengan tipe penelitian deskriptif analitis. Hasil penelitian ini adalah pembatalan perkawinan mengakibatkan tiga hal yaitu hak dan kewajiban suami isteri hilang dan kembali kepada keadaan sebelum terjadinya perkawinan, anak-anak yang lahir tetap memiliki hubungan hukum dengan orangtuanya, dan harta bawaan masing-masing pihak kembali kepada pemilik harta tersebut. Harta yang didapatkan selama perkawinan secara bersama-sama dibagi sejumlah uang yang dikeluarkan untuk mendapatkan harta tersebut. Pembagian harta warisan untuk isteri pertama dan anak-anaknya berubah seiring dengan batalnya perkawinan almarhum suami dengan isteri kedua. Saran Penulis agar tidak terjadi hal serupa adalah perlunya ketelitian dan peran aktif Pegawai Pencatat Perkawinan, kejujuran calon pengantin, dan pembaharuan Undang-Undang Perkawinan serta peraturan pelaksanaannya yang bersifat teknis dan lengkap agar mengikuti perkembangan zaman merupakan saran Penulis untuk mencegah terjadinya hal serupa.

.....Deviation that occurs due to the desire of a husband for marrying multiple woman, sometime, is done by falsifying the documents of first wife to illegally support his marriage. This thesis discusses the annulment of polygamous marriage as found in the case study of the Decision of Pekanbaru Religious High Court No. 42/Pdt.G/2017/PT.Pbr) which was granted to strengthen the Verdict of Bangkinang Religious Court No. 532/Pdt.G/2016/PA.Bkn. The issues discussed in this Thesis were the legal consequences resulted by the marriage annulment towards the rights of second wife and division of community property as well as the inheritance. A normative juridical approach was used and the type of analytical descriptive research. This study has concluded that the marriage annulment may result in three consequences, namely rights and obligations of spouse shall cease upon the granting of annulment and restore to the state before such marriage, children who are born and conceived during such marriage shall be deemed as legitimate children of the parent, and any assets already acquired by each spouse before such marriage shall be separated and reinstated to the legal owner of such assets. Any assets acquired by the spouses during their marriage shall be separated and divided into equal parts based on the sum of money spent in acquiring such assets. The

division of inheritance to the first wife shall change according to the marriage annulment between the late husband and the second wife. The researcher's suggestion to prevent the similar issues to happen in the near future is the need of the thoroughness and active role of the Marriage Registrar, integrity of the future bride and groom, and also the rejuvenation of Marriage Law as well as its technical and complete subordinate legislation which must adapt with current era.