

Status harta kawin dari perkawinan campuran di luar negeri yang belum dicatatkan di Indonesia studi putusan pengadilan tinggi Daerah Khusus Ibukota Jakarta nomor 613/pdt/2017/pt.dki = The status of marriage treasure from mixed marriage held overseas which has not been recorded in Indonesia study on the decision of Jakarta High Court Special District capital city number 613/pdt/2017/pt.dki

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Abstrak

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Pasangan suami isteri yang melakukan perkawinan campuran seringkali tidak memperhatikan akibat hukum dari perkawinan campuran tersebut, khususnya terhadap harta bersama. Untuk melindungi diri pribadi dan agar di kemudian hari konsekuensi hukum atas suatu perbuatan hukum dapat dipertanggungjawabkan oleh masing-masing pihak sehingga tidak melibatkan harta yang dimilikinya, hendaknya pasangan yang melakukan perkawinan campuran membuat perjanjian kawin. Perjanjian kawin sebelum adanya Putusan Mahkamah Konstitusi Nomor 69/PUU-XIII/2015, sesuai Pasal 29 ayat (1) Undang-Undang Perkawinan hanya dapat dibuat pada saat atau sebelum perkawinan dilangsungkan. Pada studi kasus Putusan Pengadilan Tinggi Daerah Khusus Ibukota Jakarta Nomor 613/PDT/2017/PT.DKI, pasangan suami isteri tersebut sempat membuat perjanjian kawin yang dibuat pada Notaris di Indonesia, setelah perkawinan dilangsungkan di Australia, namun kemudian perjanjian kawin tersebut batal demi hukum. Penulis mengadakan penelitian atas kasus tersebut dengan jenis penelitian yuridis normatif dan sifat penelitiannya deskriptif analitis. Berdasarkan hasil penelitian, Penulis menyimpulkan bahwa implikasi hukum atas pembatalan perjanjian kawin menyebabkan seperti dari semula tidak pernah ada suatu perjanjian. Oleh karenanya dalam perkawinan campuran tersebut terdapat harta bersama yang harus dibagi antara suami isteri setelah perkawinan berakhir karena perceraian yakni masing-masing 50% (lima puluh persen) atau setengah bagian dari harta bersama.

**ABSTRACT**

Married couples who do a mixed marriage often do not pay attention to the legal consequences of the mixed marriage, especially for joint property. To protect oneself and so that in the future the legal consequences of a legal action can be accounted for by each party so that it does not involve the assets they own, couples who have to make a mixed marriage make a marriage agreement. Marriage agreement before the Constitutional Court Decision Number 69/PUU-XIII/2015, in accordance with Article 29 paragraph (1) of the Marriage Law can only be made during or before the marriage

takes place. In the case study of the Decision of the High Court of the Special Capital Region of Jakarta Number 613/PDT/2017/PT.DKI, the couple made a marriage agreement made to a notary in Indonesia, after the marriage took place in Australia, but then the marriage agreement was null and void. . The author conducted research on these cases with a type of normative juridical research and the nature of the research was analytical descriptive. Based on the results of the study, the author concludes that the legal implications of the cancellation of the marriage agreement cause that from the beginning there was never an agreement. Therefore, in a mixed marriage there is a Joint asset which must be divided between husband and wife after the marriage ends due to divorce, each of which is 50% fifty percent or half of the joint property.