

Hak Waris Anak Luar Kawin sebagai Ahli Waris Penggantian Tempat (Plaatsvervulling) terhadap Warisan Keluarga Ibu Ditinjau melalui Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan dan Kitab Undang-Undang Hukum Perdata : Studi Kasus Putusan Mahkamah Agung Nomor 784 K/Pdt/2014 = Waris Rights of Outside Married Children as a Place Replacement (Plaatsvervulling) to The Mother Waris Family Reviewed based on The Act Number 1 of 1974 regarding Marriage and Indonesian Civil Code : Based on Supreme Court Decision Number 784 K/Pdt/2014

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Abstrak

Hukum Kewarisan di Indonesia menjadi hal yang sering diperdebatkan, salah satunya mengenai hak waris bagi anak luar kawin. Mengenai hal ini tertuang dalam Putusan Mahkamah Agung Nomor 784 K/Pdt/2014 yakni seorang anak luar kawin sebagai ahli waris pengganti mengajukan permohonan warisan yang di dapat oleh ibu nya yang sudah meninggal kepada pengadilan hal ini dikarenakan saudara dari ibu pemohon tidak memberikan warisan kepada dirinya dan saudaranya dikarenakan keduanya merupakan anak luar kawin. Dalam hal ini hakim mengabulkan permohonan tersebut untuk seluruhnya dan masing – masing anak luar kawin berhak atas 1/16 bagian dari warisan kakek dan nenek. Penulis dalam tulisan ini ingin membahas mengenai hak waris anak luar kawin ditinjau melalui KUH Perdata dan UU Perkawinan serta analisis mengenai Putusan Mahkamah Agung yang mengabulkan permohonan kasasi pemohon. Penulisan skripsi ini menggunakan pendekatan yuridis normatif dengan metode analisis data deskriptif-analitis sehingga simpulan yang diperoleh berupa penjelasan eksplanatif. Dari penelitian ini dapat diketahui bahwa aturan mengenai kewarisan anak luar kawin sebagai ahli waris penggantian tempat antara KUHPerdata dan UU Perkawinan terdapat persinggungan. Melalui Pasal 842 KUH Perdata dinyatakan bahwa pergantian dalam garis lurus kebawah hanya dapat dilakukan untuk anak sah, sedangkan dalam Pasal 43 ayat (1) UU Perkawinan anak luar kawin memiliki hubungan perdata dengan ibu dan keluarga ibunya hal ini menimbulkan penafsiran termasuk dalam hal kewarisan.

.....Inheritance Law in Indonesia is often debated, one of which is about the inheritance rights of children outside of marriage. The application of this, it is stated in the Decision of the Supreme Court Number 784 K/Pdt/2014, namely a child outside of marriage who is a substitute heir submits an inheritance application obtained by the applicant's mother who has died to the court, this is because the relatives of the applicant's mother did not provide inheritance to himself and his siblings because both of them are children outside of marriage. In this case the judge grants the request in its entirety and each children outside of marriage is entitled to 1/16 of the inheritance of the applicant's grandparents. The author in this paper wants to discuss the inheritance rights of children outside of marriage, reviewed through the Civil Code and Marriage Law as well as an analysis of the Supreme Court's decision that granted the petitioner's appeal. The writing of this thesis uses juridical-normative approach with data analytical descriptive-analysis thus the conclusion which is obtained will be served in a form of explanative explanation. From this research it can be seen that the rules regarding the inheritance of out-of-wedlock children as heirs to change places between the Civil Code

and the Marriage Law have intersections. Through Article 842 of the Civil Code, it is stated that changes in a straight line downward can only be made for legal children, whereas in Article 43 paragraph (1) of the Marriage Law, children outside of marriage have a civil relationship with the mother and the mother's family, in which interpretations including in terms of inheritance.