

Perlindungan Hukum Penerima Hibah Akibat Kelalaian Notaris dalam Akta Pengikatan Hibah Orang Tua Terhadap Anak (Studi Putusan Pengadilan Tinggi Agama Bengkulu Nomor 25/Pdt.G/2019/PTA.Bn) = Legal Protection of a Grant Recipient Due to the Notary's Negligence in the Parental Grant Binding Deed to the Children (Study of Bengkulu High Religious Court Decision Number 25/Pdt.G/2019/PTA.Bn)

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Abstrak

Proses Hibah orang tua terhadap anak seharusnya dilakukan secara itikad baik agar menghindari konsekuensi peluang penarikan hibah. Adanya peluang penarikan kembali hibah membuat tidak adanya kepastian hukum terhadap penerima hibah. Adapun permasalahan dalam penelitian ini adalah mengenai analisis pertimbangan hakim dalam permohonan pembatalan akta pengikatan hibah orang tua terhadap anak berdasarkan Putusan Pengadilan Tinggi Agama Bengkulu Nomor 25/Pdt.G/2019/PTA.Bn dan perlindungan bagi penerima hibah akibat kelalaian notaris dalam akta pengikatan hibah orang tua terhadap anak. Untuk menjawab permasalahan tersebut digunakan metode penelitian hukum normatif dengan Tipologi penelitian berupa penelitian eksplanatoris. Hasil analisis adalah Majelis hakim tingkat banding untuk tidak membatalkan seluruhnya putusan hakim tingkat Pertama dan cukup memperbaiki putusan yang kurang tepat dengan memberikan 1/3 harta kepada penerima hibah dan sisanya dikembalikan kepada pemberi hibah sesuai dengan Pasal 210 KHI. Perlindungan hukum penerima hibah dalam perjanjian pengikatan hibah orang tua terhadap anak dengan membuat akta hibah oleh pejabat yang berwenang dengan besarnya sesuai dengan Pasal 210 KHI. Apabila penerima hibah merupakan anak di bawah umur maka pengurusannya dapat dilakukan melalui perwakilan orang tua atau perwalian. Selain itu, penerima hibah dapat mengajukan gugatan ke pengadilan atas dibatalkannya akta hibah. Adapun saran yang dapat diberikan bahwa Hibah tidak mengenal adanya pengikatan, penulis menyarankan kepada majelis hakim untuk memerintahkan kepada para pihak segera membuat Akta Hibah. Orang tua yang ingin melakukan hibah kepada anaknya sebaiknya memahami tujuan dari hibah agar tidak terjadi penarikan hibah. Notaris dalam membuat akta hendaknya mengikuti ketentuan yang berlaku karena akta autentik yang dibuat sangat berpengaruh kepada berbagai pihak.

.....The process of parental grants to children should be carried out with good intention in order to avoid the possible consequences of withdrawing the grant. The existence of the opportunity to withdraw the grant creates no legal certainty for the recipient of the grant. The problem in this research is concerning the analysis of the judge's consideration in the cancellation application of the parental grant binding deed to the child based on the Bengkulu Religious High Court Decision Number 25/Pdt.G/2019/PTA.Bn and the legal protection for the grant recipient due to the notary's negligence in the parental grant binding deed to the children. To answer the problems, normative legal research method is used with explanatory typology. The analysis result is that the panel of appellate degree judges does not completely cancel the decision of the first-degree judge and simply corrects the inaccurate decision by giving 1/3 of the assets to the grant recipient and returned the rest to the grantor in accordance with Clause 210 of the KHI. Legal protection of

grant recipients in the agreement to bind parental grants towards the children by making a grant deed by an authorized official with the determined amount according to Clause 210 of the KHI. If the grant recipient is a minor, the arrangement can be done through parent's representative or guardian. In addition, the grant recipient could file a lawsuit to the court for the cancellation of the grant deed. As for the suggestions that can be given are that the Grant is not bindable, the author suggests to the panel of judges to order the parties to immediately make a Grant Deed. Parents who want to make grants to their children should understand the purpose of a grant so that there won't be a withdrawal of the grant. The notary, in making a deed, should follow the applicable regulations because the making of an authentic deed is very influential to various parties.