

Pembagian Harta Peninggalan Atas Keabsahan Surat Keterangan Waris Yang Dibuat Oleh Istri dan Anak-Anak Dari Perkawinan Kedua Tanpa Melibatkan Ahli Wais Dari Perkawinan Pertama (Studi Putusan Mahkamah Agung Nomor 1996 K/Pdt/2018) = DISTRIBUTION OF HEATH PROPERTY ON THE legitimacy of the CERTIFICATE OF HEIRTH MADE BY THE WIFE AND CHILDREN FROM THE SECOND MARRIAGE WITHOUT INVOLVING THE HERITIES OF THE FIRST MARRIAGE (STUDY OF THE SUPREME COURT DECISION NUMBER 1996 K/Pdt/2018)

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Abstrak

Penelitian ini membahas mengenai pembagian harta peninggalan pewaris kepada ahli waris yang berhak berdasarkan sistem hukum perdata yang tunduk pada Kitab Undang-Undang Hukum Perdata. Penelitian ini bertujuan menganalisis pembagian harta peninggalan dari perkawinan pertama dan kedua sebagaimana surat keterangan waris yang dibuat istri dan anak-anak dari perkawinan kedua tanpa melibatkan ahli waris dari perkawinan pertama. Pewarisan hanya berlangsung karena kematian sebagaimana ditentukan dalam Pasal 830 KUHPperdata. Pembagian harta peninggalan tidak dibedakan antara laki-laki dengan perempuan. Dalam hal mengenai warisan seorang suami atau istri yang meninggal terlebih dahulu jika perkawinan tersebut adalah yang kedua kalinya, bagian suami atau istri yang ditinggalkan tidak mendapat bagian warisan lebih besar dari anak-anak dari perkawinan yang pertama dan bagian yang didapat tidak boleh lebih dari seperempat harta peninggalan pewaris. Surat keterangan waris yang dibuat oleh istri dan anak-anak dari perkawinan kedua untuk melakukan peralihan hak atas tanah warisan dan menguasai objek tanah warisan yang belum dibagikan kepada seluruh ahli waris yang berhak yang ditentukan oleh peraturan perundang-undangan tanpa melibatkan ahli waris lain merupakan perbuatan melawan hukum. Permasalahan yang diangkat dalam penelitian ini adalah mengenai pembagian harta peninggalan waris terhadap ahli waris dari perkawinan pertama dan kedua berdasarkan putusan mahkamah agung nomor 1996 k/pdt/2018; dan keabsahan surat keterangan waris yang dibuat oleh istri dan anak-anak dari perkawinan kedua tanpa melibatkan ahli waris dari perkawinan pertama berdasarkan putusan mahkamah agung nomor 1996 k/pdt/2018. Untuk menjawab permasalahan tersebut digunakan metode penelitian yuridis normatif dengan menggunakan jenis data sekunder. Hasil penelitian meliputi pembagian harta peninggalan pewaris kepada ahli waris dari perkawinan pertama dan perkawinan kedua sebagaimana ditentukan dalam Pasal 852 dan 852a KUHPperdata. Surat keterangan waris yang dibuat oleh istri dan anak-anak dari perkawinan kedua harus melibatkan ahli waris dari perkawinan pertama yang memuat pembagian harta peninggalan pewaris sesuai dengan peraturan perundang-undangan demi menjamin keadilan sehingga tidak ada salah satu pihak yang dirugikan

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due to death as stipulated in Article 830 of the Civil Code. The division of inheritance is not differentiated between men and women. In the case of inheritance of a husband or wife who dies first if the marriage is the second time, the share of the husband or wife who is left behind does not get a share of the inheritance that is greater than the children from the first marriage and the share obtained cannot be more than a quarter of the property. heir inheritance. Inheritance certificate made by the wife and children from the second marriage to transfer the rights to the inherited land and control the object of the inherited land that has not been distributed to all entitled heirs determined by legislation without involving other heirs is an act against law. The problems raised in this study are regarding the distribution of inheritance to the heirs of the first and second marriages based on the decision of the supreme court number 1996 k/pdt/2018; and the validity of the inheritance certificate made by the wife and children from the second marriage without involving the heirs from the first marriage based on the decision of the Supreme Court number 1996 k/pdt/2018. To answer these problems used normative juridical research methods using secondary data types. The results of the study include the distribution of the inheritance of the heir to the heirs of the first and second marriages as specified in Articles 852 and 852a of the Civil Code. The inheritance certificate made by the wife and children from the second marriage must involve the heirs from the first marriage which contains the distribution of the inheritance of the testator in accordance with the laws and regulations in order to ensure justice so that neither party is harmed. This study discusses the distribution of the inheritance of the heir to the rightful heirs based on the civil law system which is subject to the Civil Code. This study aims to analyze the distribution of inheritance from the first and second marriages as well as the inheritance certificates made by the wife and children from the second marriage without involving the heirs from the first marriage. Inheritance only takes place due to death as stipulated in Article 830 of the Civil Code. The division of inheritance is not differentiated between men and women. In the case of inheritance of a husband or wife who dies first if the marriage is the second time, the share of the husband or wife who is left behind does not get a share of the inheritance that is greater than the children from the first marriage and the share obtained cannot be more than a quarter of the property. heir inheritance. Inheritance certificate made by the wife and children from the second marriage to transfer the rights to the inherited land and control the object of the inherited land that has not been distributed to all entitled heirs determined by legislation without involving other heirs is an act against law. The problems raised in this study are regarding the distribution of inheritance to the heirs of the first and second marriages based on the decision of the supreme court number 1996 k/pdt/2018; and the validity of the inheritance certificate made by the wife and children from the second marriage without involving the heirs from the first marriage based on the decision of the Supreme Court number 1996 k/pdt/2018. To answer these problems used normative juridical research methods using secondary data types. The results of the study include the distribution of the inheritance of the heir to the heirs of the first and second marriages as specified in Articles 852 and 852a of the Civil Code. The inheritance certificate made by the wife and children from the second marriage must involve the heirs from the first marriage which contains the distribution of the inheritance of the testator in accordance with the laws and regulations in order to ensure justice so that neither party is harmed.