

Urgensi Peran Saksi Fakta dan Tanggung Jawabnya dalam Akta Keterangan Ahli Waris (Studi Putusan Pengadilan Tinggi Surabaya No. 44/PDT/2022/PT SBY) = The Urgency of Role of Fact Witness and Their Responsibility in Deed of Acknowledgment of Inheritance (Study of Surabaya High Court Decision No. 44/PDT/2022/PT SBY)

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Abstrak

Akta Keterangan Ahli Waris sebagai akta autentik yang dibuat di hadapan notaris seharusnya mengandung pernyataan yang dapat dipertanggungjawabkan kebenarannya oleh ahli waris dan saksi fakta. Namun dalam kenyataannya terdapat keterangan palsu di dalam Akta Keterangan Ahli Waris yang disampaikan oleh ahli waris dan dibenarkan oleh saksi fakta sebagaimana ditemukan di dalam Putusan Pengadilan Tinggi Surabaya No. 44/PDT/2022/PT SBY. Oleh karena itu, permasalahan yang diangkat di dalam penelitian ini adalah tentang urgensi peran saksi fakta di dalam Akta Keterangan Ahli Waris dan tanggung jawab saksi fakta di dalam Akta Keterangan Ahli Waris dengan keterangan palsu. Untuk dapat menjawab permasalahan tersebut dilakukan penelitian doktrinal menggunakan data sekunder berupa bahan-bahan hukum yang dikumpulkan melalui studi kepustakaan, yang dianalisis secara kualitatif. Dari hasil analisis dijelaskan bahwa urgensi peran saksi fakta di dalam Akta Keterangan Ahli Waris sangat penting karena mendukung pernyataan ahli waris selaku penghadap terkait riwayat hidup pewaris dan kebenaran dari dokumen-dokumen yang diperlukan dalam pembuatan Akta Keterangan Ahli Waris. Saksi fakta tidak sama dengan saksi akta karena saksi fakta merupakan penghadap yang mengetahui kebenaran materiil dari sebuah Akta Keterangan Ahli Waris, sedangkan saksi akta hanya mengetahui kebenaran formil dari akta. Kehadiran saksi fakta dalam pembuatan Akta Keterangan Ahli Waris tidak wajib namun dalam perkembangan praktik kenotariatan, keberadaan saksi fakta untuk menegaskan kebenaran riwayat hidup pewaris menjadi penting. Keberadaan saksi fakta belum mendapatkan kepastian hukum karena tidak ada peraturan perundang-undangan yang secara tegas mengatur kedudukan, syarat, dan perannya. Adapun terkait tanggung jawab dapat dijelaskan bahwa sebagai penghadap yang turut memberikan keterangan palsu di dalam Akta Keterangan Ahli Waris, saksi fakta dapat dimintakan pertanggungjawaban perdata atas Perbuatan Melawan Hukum sebagaimana diatur di dalam Pasal 1365 Kitab Undang-undang Hukum Perdata dan pidana atas tindakan penyertaan pemalsuan akta autentik yang dirumuskan pada Pasal 55 ayat (1) KUHP jo. Pasal 264 ayat (1). Deed of Acknowledgment of Inheritance, which is an authentic deed made by a notary, should contain statements whose truth can be confirmed by the heirs and the witness of fact. However, in reality there is a false information in a Deed of Acknowledgment of Inheritance made by the heirs and confirmed by the witness of fact as found in the case of Surabaya High Court Decision No. 44/PDT/2022/PT SBY. Therefore, the problem raised in this research is the urgency of the role of the witness of fact in the Deed of Acknowledgment of Inheritance. Furthermore,

regarding the responsibilities of the witness of fact in the Deed of Acknowledgment of Inheritance that contains false information is also analyzed in this research. To answer this problem, doctrinal research was carried out, using secondary data in the form of legal materials collected through literature study, which was analyzed qualitatively. The result of this research explained that the urgency of the role of fact witness in the Deed of Acknowledgment of Inheritance is very important because they support the statement that is delivered by the the heir and the veracity of the documents required in the making of the Deed of Acknowledgment of Inheritance. Fact witnesses are often mistakenly equated with deed witnesses in the making of authentic deeds. In fact, a witness of fact is not the same as a deed witness because a witness of fact is a person who knows the material truth of a Deed of Acknowledgment of Inheritance, which is different from a deed witness who is a witness in the making of an authentic deed that only knows the formal truth of the deed. Thus far, the presence of fact witnesses in the making of the Deed of Acknowledgement of Inheritance is not mandatory, but in the development of notarial practice, the presence of fact witnesses to confirm the truth of the testator's life history has become important. Recognition of the existence of fact witnesses in general has not received legal certainty because by far there are no statutory regulations that explicitly regulate the standing, requirements and role of fact witnesses. As for the responsibilities of fact witnesses, it can be explained that as persons who provide false information in the Deed of Acknowledgment of Inheritance, fact witnesses can be held civilly responsible, namely responsibility for Unlawful Acts as regulated in Article 1365 of the Civil Code and criminal charges for partaking in a criminal act as formulated in Article 55 paragraph (1) jo. Article 264 paragraph (1) of the Criminal Code.