

Pembatalan Akta Pembagian Harta Waris yang Didasarkan pada Hukum Adat Batak Toba (Studi Putusan Mahkamah Agung Nomor 909 PK/Pdt/2019) = Cancellation of the Deed of Distribution of Inheritance Property Based on Toba Batak Customary Law (Study of Supreme Court Decision Number 909 PK/Pdt/2019)

Simanjuntak, Solagratia Moza Tesselonika, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920539827&lokasi=lokal>

Abstrak

Pembagian harta waris berdasarkan Hukum Waris Adat Batak Toba yang dipilih oleh pewaris sebelum meninggal dunia dan dituangkan dalam Akta Wasiat, seharusnya dipertimbangkan oleh hakim ketika memutuskan penyelesaian sengketa pembagian harta waris. Hal tersebut tentu diperlukan untuk memenuhi rasa keadilan masyarakat Hukum Adat yang menghendaki pembagian harta waris mereka didasarkan pada norma Hukum Adat setempat. Dalam kenyataannya, sengketa pembagian harta waris diputuskan hakim dengan mempertimbangkan norma di luar Hukum Adat Batak Toba sehingga Akta Wasiat dibatalkan, sebagaimana ditemukan dalam Putusan Mahkamah Agung Nomor 909 PK/Pdt/2019. Tujuan dari penelitian ini adalah menganalisis akibat hukum Putusan a quo terhadap pembagian harta waris menurut Hukum Adat Batak Toba dan peran notaris dalam pembuatan Akta Wasiat yang memuat kehendak penghadap untuk membagi waris berdasarkan Hukum Adat Batak Toba. Penelitian doktrinal ini menggunakan data sekunder berupa bahan-bahan hukum yang relevan dengan tujuan penelitian. Data tersebut dikumpulkan melalui studi dokumen, dan didukung dengan wawancara terhadap beberapa informan dan narasumber. Selanjutnya dilakukan analisis secara kualitatif. Dari hasil analisis dapat dijelaskan bahwa akibat hukum Putusan a quo terhadap pembagian harta waris berdasarkan Hukum Adat Batak Toba adalah Akta Wasiat dinyatakan sebagai cacat dan batal demi hukum. Selain itu dapat dinyatakan bahwa telah terjadi pergeseran dalam pembagian harta waris pada sebagian Masyarakat Adat Batak Toba yang semula memegang teguh norma hukum yang patrilineal menjadi mulai mengakomodasi persamaan hak antara laki-laki dan perempuan. Dalam kaitannya dengan peran notaris dalam pembuatan Akta Wasiat berdasarkan Hukum Adat Batak Toba dapat dikemukakan bahwa penyuluhan hukum tentang pembagian harta waris harus disampaikan sebelum pembuatan akta agar penghadap memahami ketentuan hukum yang dipilihnya untuk dijadikan dasar dalam pembagian waris. Kemudian, notaris dapat meminta Berita Acara dari penghadap mengenai pewarisan secara Hukum Adat dan membuat klausula dalam Akta Wasiat untuk mengklarifikasi maksud yang terkandung dalam akta, terutama dalam konteks pembagian harta waris berdasarkan kehendak terakhir pewaris.

.....The distribution of inheritance based on the Toba Batak Customary Inheritance Law, which was chosen by the testator before he or she died and stated in the Deed of Will, should be considered by the judge when deciding on the resolution of disputes over the distribution of inheritance. This is certainly necessary to fulfill the sense of justice of the Customary Law community who wants the distribution of their inheritance to be based on local Customary Law norms. In reality, disputes over the division of inheritance were decided by judges taking into account norms outside the Toba Batak Customary Law so that the Deed of Will was cancelled, as found in Supreme Court Decision Number 909 PK/Pdt/2019. The aim of this research is to analyze the legal consequences of the a quo decision on the distribution of inheritance according to Toba

Batak Customary Law and the role of the notary in making a Deed of Will which contains the wishes of the party to divide inheritance based on Toba Batak Customary Law. This doctrinal research uses secondary data in the form of legal materials that are relevant to the research objectives. This data was collected through document study, and supported by interviews with several informants and sources. Next, a qualitative analysis was carried out. From the results of the analysis it can be explained that the legal consequence of the a quo decision regarding the distribution of inheritance based on Toba Batak Customary Law is that the Deed of Will is declared defective and null and void. Apart from that, it can be stated that there has been a shift in the distribution of inheritance among some of the Toba Batak Indigenous Peoples who previously adhered to patrilineal legal norms and have begun to accommodate equal rights between men and women. In relation to the role of a notary in making a Deed of Will based on Toba Batak Customary Law, it can be stated that legal counseling regarding the distribution of inheritance must be provided before making the deed so that the person who submits it understands the legal provisions he or she has chosen to use as a basis for the distribution of inheritance. Then, the notary can request an official report from the applicant regarding the distribution of inheritance according to customary law and make clauses in the Deed of Will to clarify the meaning contained in the deed, especially in the context of the distribution of inheritance based on the last will of the testator.