

Ketidaktepatan Pertimbangan Hukum Majelis Hakim dalam Membatalkan Surat Keterangan Waris yang Dibuat Notaris (Studi Putusan Pengadilan Negeri Surabaya Nomor 204/Pdt.G/2023/PN Sby) = The Inaccuracy of the Legal Considerations of the Panel of Judges in Annuling the Certificate of Inheritance Issued by a Notary (Case Study of the Surabaya District Court Decision Number 204/Pdt.G/2023/PN Sby)

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Abstrak

Istri selaku pasangan yang masih hidup semestinya menjadi ahli waris sebagaimana ketentuan dalam Pasal 832 Kitab Undang-Undang Hukum Perdata (KUHPerdata) meskipun terdapat perjanjian perkawinan karena menurut Pasal 1063 KUHPerdata perjanjian perkawinan tidak melepaskan hak mewaris dari pasangan yang masih hidup, sehingga pihak tersebut tetap menjadi ahli waris. Oleh karena itu, istri memiliki hak sebagai ahli waris dan diterangkan ke dalam Surat Keterangan Waris (SKW) oleh notaris. Pada kenyataannya, ditemukan bahwa istri tidak berhak menjadi ahli waris dikarenakan terdapat perjanjian perkawinan pisah harta, sehingga SKW yang sudah dibuat oleh notaris dibatalkan sebagaimana dalam Putusan Pengadilan Negeri Surabaya Nomor 204/Pdt.G/2023/PN Sby. Penelitian dilakukan dengan maksud menganalisis ketidaktepatan pertimbangan hukum majelis hakim dalam membatalkan SKW yang dibuat notaris. Penelitian ini merupakan penelitian hukum doktrinal yang memaparkan masalah secara eksplanatoris untuk mengumpulkan data sekunder berupa bahan-bahan hukum melalui studi dokumen. Bahan-bahan yang telah dikumpulkan selanjutnya dianalisis secara kualitatif. Hasil analisis menjelaskan bahwa sebelum penghapusan penggolongan penduduk, masyarakat membuat SKW kepada lembaga-lembaga penerbit seperti lurah/camat, notaris, dan BHP sesuai golongan mereka. Selepas dihapuskan, maka masyarakat bebas hendak membuat SKW di lembaga manapun. Adapun pembatalan SKW yang dibuat notaris oleh majelis hakim berdasarkan pertimbangan hukum dalam Putusan Pengadilan Negeri Surabaya Nomor 204/Pdt.G/2023/PN Sby adalah tidak tepat. SKW yang dibuat oleh Notaris AH sudah sesuai dengan ketentuan peraturan perundangundangan berlaku yaitu KUHPerdata.

.....The wife as the surviving spouse should be the heir as stipulated in Article 832 of the Civil Code (KUHPerdata) despite the existence of a marriage agreement because according to Article 1063 of the KUHPerdata the marriage agreement does not release the right to inherit from the surviving spouse, so that party remains the heir. Therefore, the wife has the right as an heir and is explained in the Certificate of Inheritance (SKW) by a notary. In reality, it was found that the wife was not entitled to be an heir due to the existence of a property separation marriage agreement, so that the SKW that had been made by the notary was cancelled as in the Surabaya District Court Decision Number 204/Pdt.G/2023/PN Sby. The research was conducted with the intention of analysing the inaccuracy of the legal considerations of the panel of judges in cancelling the SKW made by the notary. This research is a doctrinal legal research that describes the problem in an explanatory manner to collect secondary data in the form of legal materials through document studies. The materials that have been collected are then analysed qualitatively. The results of the analysis explain that before the abolition of population classification, people made SKW to issuing

institutions such as lurah/camat, notary, and BHP according to their class. After the abolition, people were free to make SKWs at any institution. The cancellation of the SKW made by the notary by the panel of judges based on legal considerations in Surabaya District Court Decision Number 204/Pdt.G/2023/PN Sby is inappropriate. The SKW made by Notary AH is in accordance with the provisions of the applicable laws and regulations, namely the Civil Code.