

Analisis Hukum Hibah Terhadap Tanah Objek Warisan Yang Belum Dibagi (Studi Putusan Mahkamah Agung Nomor 2518 K/PDT/2018) = Legal Analysis of the Object of Undistributed Inheritance Land Grant (Study of the Court Decision Number 2518 K/PDT/2018)

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Abstrak

Hibah adalah pemberian yang dilakukan oleh seseorang kepada pihak lain yang dilaksanakan ketika masih hidup. Pelaksanaan hibah hanya dibatasi sebanyak-banyaknya 1/3 (sepertiga) dari harta benda yang dimilikinya. Pemberian hibah sering kali menimbulkan dan membawa permasalahan diantara keluarga. Adapun permasalahan yang diangkat dalam penelitian ini adalah mengenai pelaksanaan hibah kepada anak angkat terhadap kepemilikan tanah objek warisan yang dilakukan sebelum adanya pembagian waris menurut ketentuan hukum Islam; dan, kesesuaian pertimbangan Majelis Hakim dalam Putusan Mahkamah Agung Nomor 2518 K/Pdt/2018 dengan peraturan perundang-undangan di Indonesia. Untuk permasalahan tersebut digunakan metode penelitian yuridis normatif yang menggunakan bahan hukum primer, sekunder, dan tersier dengan tipe penelitian secara preskriptif. Hasil analisis dalam penulisan ini adalah pelaksanaan hibah kepada anak angkat terhadap kepemilikan tanah objek warisan yang dilakukan sebelum adanya pembagian waris tidak dapat dilakukan karena terdapat hak ahli waris dalam harta benda tersebut yang bersifat mutlak dan pembagian harta benda tersebut harus dilaksanakan sesuai dengan bagian yang telah ditentukan. Pertimbangan Majelis Hakim di tingkat kasasi tidak sesuai dengan Pasal 210 ayat (2) Kompilasi Hukum Islam (KHI). Majelis hakim hanya mempertimbangkan status tanah sawah sengketa tersebut tanpa mempertimbangkan hibah telah dinyatakan batal demi hukum karena di dalam objek hibah tersebut masih ada hak para ahli waris. Putusan Majelis Hakim di tingkat kasasi menyebabkan para ahli waris tidak dapat menerima haknya. Majelis Hakim sebaiknya dalam memutuskan suatu perkara harus melihat fakta-fakta dan mempertimbangkan putusan berdasarkan dokumen-dokumen secara menyeluruh untuk dijadikan bahan pertimbangan hukum.

.....A grant is a gift made by one person to another that is carried out while still alive. The implementation of the grant is only limited to a maximum of 1/3 (one third) of the assets it owns. Giving grants often creates and brings problems between families. The problems raised in this study are regarding the implementation of grants to adopted children to the ownership of the land object of inheritance which is carried out before the distribution of inheritance according to the provisions of Islamic law; and, the suitability of the considerations of the Panel of Judges in the Supreme Court Decision Number 2518 K/Pdt/2018 with the laws and regulations in Indonesia. For this reason, the normative juridical research methods are used for primary, secondary, and tertiary legal materials with prescriptive research types. The results of the analysis in this writing are the implementation of the granting to adopted children to the ownership of the land object of inheritance which was carried out before the distribution is not the right distribution of inheritance could not be carried out because there were rights in the property which were absolute and the distribution of the property had to be carried out in accordance with the predetermined part. The Panel of Judges at the cassation level is not accordance with the provisions of Article 210 paragraph (2) Compilation of Islamic Law (KHI). The panel of judges only considered the status of the disputed rice fields without any

consideration that the grant had been declared null and void because in the object of the grant there were rights due to the decision of the Panel of Judges should in deciding a case must look at the facts and consider the decision based on the comprehensive documents as a whole to be used as legal considerations