

ABSTRAK

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KEDUDUKAN DAN AKIBAT HUKUM AKTA WASIAT YANG DIBUAT OLEH SUAMI DI HADAPAN NOTARIS TERKAIT HARTA BERSAMA

(xi + 109 halaman)

Ikatan lahir batin suami istri untuk membentuk keluarga yang bahagia. Ikatan itu disebut perkawinan. Perkawinan terdapat pencampuran dan pemisahan harta. Harta bersama tidak adanya perjanjian perkawinan sedangkan pemisahan harta terdapat perjanjian kawin. Bagaimana kedudukan Akta Wasiat yang dibuat oleh suami dihadapan Notaris tanpa persetujuan isteri terkait harta bersama? Dan Bagaimana akibat hukum Akta Wasiat yang dibuat oleh suami dihadapan Notaris yang melanggar ketentuan harta bersama menurut Undang-Undang Nomor 1 tahun 1974? Penelitian ini menggunakan jenis penelitian hukum normatif (*legal research*)-empiris. Putusan yang sudah *inkracht* melakukan analisa terhadap pertimbangan Majelis Hakimnya (rasio decidendi). Kedudukan Akta Wasiat yang dibuat oleh suami dihadapan Notaris tanpa persetujuan isteri terkait harta bersama Akta wasiat tanpa persetujuan istri atas harta bersama tidak sah untuk keseluruhan harta, melainkan hanya berlaku atas bagian milik suami, sepanjang tidak ditemukannya perjanjian perkawinan di dalam keluarga, namun apabila terdapat perjanjian perkawinan maka pihak suami dapat membuat wasiat dengan harta yang sudah menjadi miliknya tanpa persetujuan dan pembagian harta dengan isteri. Akibat hukum Akta Wasiat yang dibuat oleh suami dihadapan Notaris yang melanggar ketentuan harta bersama menurut Undang-Undang Nomor 1 tahun 1974 batal demi hukum yang melanggar Pasal 36 Undang Undang Nomor 1 Tahun 1974 Tentang Perkawinan dimana mengenai harta bersama, suami atau isteri dapat bertindak atas persetujuan kedua belah pihak.

Referensi :35 (1974 – 2024)

Kata Kunci: Akta Wasiat, Notaris, Harta Bersama.

ABSTRACT

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POSITION AND LEGAL EFFECTS OF THE DEED OF WILL MADE BY THE HUSBAND BEFORE A NOTARY REGARDING JOINT PROPERTY

(xi + 109 halaman)

The spiritual and emotional bond between a husband and wife is established to form a happy family. This bond is known as marriage. Within a marriage, there is both the merging and separation of assets. Joint property exists in the absence of a prenuptial agreement, whereas the separation of property is based on the existence of such an agreement. What is the legal standing of a Will (Akta Wasiat) made by a husband before a Notary without the consent of his wife, particularly regarding joint marital property? And what are the legal consequences of a Will made by a husband before a Notary that violates the provisions governing joint property under Law Number 1 of 1974? This research employs a normative-empirical legal research method. It includes an analysis of final and binding court decisions (*inkracht*) by examining the judicial panel's considerations (*ratio decidendi*). The legal standing of a Will made by a husband before a Notary without the wife's consent, in relation to joint marital property, is that such a Will is not legally valid in its entirety concerning the joint assets. It only applies to the husband's portion of the property, provided that no prenuptial agreement exists within the marriage. However, if a prenuptial agreement is in place, the husband may make a Will concerning assets that have been legally recognized as his separate property, without requiring his wife's consent or involvement in the distribution. The legal consequence of a Will made by a husband before a Notary that violates the provisions on joint property as stipulated in Law Number 1 of 1974 is that the Will is null and void by law. This is due to its violation of Article 36 of Law Number 1 of 1974 concerning Marriage, which states that with regard to joint property, either the husband or wife may act only with the consent of both parties.

References: 35 35 (1974 – 2024)

Keywords: Will Deed, Notary Making Will Deed, Joint Property.