

Analysis Of Determining Legal Status And Distribution Of Inheritance In Polygamous Marriages (Study Decision No. 1491/Pdt.G/2022/Pa Stb)

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ABSTRACT

Stabat Religious Court Case Number 1491/Pdt.G/2022/PA.Stb describes an inheritance conflict involving a husband with two wives (previously divorced from his first wife) and six children. This case demonstrates how the unclear status of joint property, unilateral claims by one party, and the refusal to distribute inheritance according to Islamic law can trigger legal disputes. A crucial point, which gave rise to legal irregularities, was that the trial facts did not find evidence of permission from the religious court for the second marriage performed by the plaintiffs' father in 1982. This is despite the fact that Law No. 1 of 1974 was already in effect at the time, which expressly requires court permission for a second marriage. Strangely, despite the lack of permission from the religious court, the second marriage was still administratively registered by the Tebing Tinggi Religious Affairs Office and resulted in a marriage certificate. This study used a normative juridical method with additional data collection techniques through informant interviews. The results showed an error in considering the legality of a second marriage that lacked court permission. The court declared the second wife as the heir, even though the marriage did not legally meet the requirements for polygamy under the Marriage Law and the Compilation of Islamic Law. This violates the principles of legal certainty, justice, and legal protection for the other parties (the first wife and her children), who have a stronger legal position. This decision demonstrates the need for consistency in the application of legal norms so that legal principles, particularly justice and certainty, can be fully upheld.

Keywords: Distribution of Inheritance, Marriage, Polygamy

INTRODUCTION

Polygamy is the practice of a man marrying more than one wife simultaneously. The definition of polygamy in the Great Indonesian Dictionary is a marriage system in which one partner has or marries several members of the opposite sex simultaneously. The

phenomenon of polygamy is not new in human history. Long before the arrival of Islam, polygamy was widely known in various ancient cultures, such as the Mesopotamian, Egyptian, Indian, and various communities in Africa and Asia. In pre-Islamic Arab society, polygamy was practiced freely without any restrictions on the number of wives, often without consideration for justice and the welfare of the wives.

In Indonesia, polygamy is regulated by several legal instruments. Formally, Law Number 1 of 1974 concerning Marriage stipulates that the principle of marriage in Indonesia is monogamy, but opens up the possibility of polygamy under certain conditions. Article 3 paragraph (2) of the Marriage Law states that a husband may only have more than one wife if so desired by his religious law and regulated by statutory regulations. Furthermore, the Compilation of Islamic Law (KHI) also provides more detailed regulations regarding the conditions and procedures for polygamy. Article 55 of the KHI states that a husband who wishes to have more than one wife must obtain permission from the Religious Court and must meet the requirements of having the consent of the first wife, the husband's ability to provide for his wives and children, and a valid reason according to Islamic law.

Indonesian civil law also addresses the rules regarding polygamy practiced by Indonesian citizens, as outlined in Articles 3 and 4 of Law Number 1 of 1974 concerning Marriage. Article 3 emphasizes that Indonesia adheres to the principle of monogamous marriage, namely only marrying one woman at a time. Article 4 paragraph 1 explains that if a husband wishes to have more than one wife, he must file a petition with the court in his place of residence. In the context of marriage, inheritance is an integral part of social life. Inheritance is closely related to a person's personal status, particularly in terms of marriage and offspring. Inheritance resulting from marital relations also raises a number of problems, especially in the context of polygamous marriages. In polygamous marriages, inheritance distribution has its own characteristics that distinguish it from inheritance distribution in monogamous marriages. This occurs because the main principle in polygamous marriages is the demand for a sense of justice in all aspects, including the distribution of inheritance. The case study of Stabat Religious Court Decision Number 1491/Pdt.G/2022/PA.Stb describes an inheritance conflict involving a husband with two wives (previously divorced from his first wife) and six children. This case demonstrates how the unclear status of joint property, unilateral claims by one party, and the refusal to distribute inheritance according

to Islamic law can trigger legal disputes. The legal issue that concerns the author arises from Stabat Religious Court Decision Number 1491/Pdt.G/2022/PA.Stb., in which there is an inheritance dispute between the children of the first wife and the second wife of a deceased man. The six plaintiffs are biological children from their first legal marriage, which took place in 1965. Meanwhile, the plaintiffs' biological father remarried in 1982 to another woman, without having any children from the second marriage. The divorce between the plaintiffs' father and mother occurred in 2000. The crucial point and legal irregularity is that in the trial facts there was no evidence of permission from the religious court for the second marriage conducted by the plaintiffs' father in 1982. In fact, at that time Law No. 1 of 1974 was in effect, which expressly required court permission to conduct a second marriage. Strangely, even though there was no permission from the religious court, the second marriage was still administratively registered by the Tebing Tinggi Religious Affairs Office and resulted in a marriage certificate.

In the legal considerations handed down by the panel of judges, the second wife was determined as the heir, on the basis that she had lived in the same house as the deceased and was considered a married couple. This decision raises critical questions regarding legal certainty, because according to positive law provisions, a marriage that does not fulfill formal legal requirements and does not obtain court permission in cases of polygamy should be considered legally void, and therefore cannot give rise to legal consequences, including inheritance rights. The determination of the second wife as an heir without a strong legal basis is considered to be able to harm the principles of justice and legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution, and has the potential to create a bad precedent in the practice of religious courts.

METHOD

The type of research used by the researcher is normative legal research. Through normative legal studies, applicable legal norms can be interpreted and how they should be applied can be understood. As Johnny Ibrahim stated, normative legal research is a scientific research procedure for discovering truth based on scientific logic, viewed from a normative perspective. which is not limited to legislation alone. Peter Mahmud said that legal research is normative research, which is not limited to positivist legal research alone.

The data collection technique used in this study is a normative legal research technique, namely a literature study. However, it is supported by interview and documentation methods to further enrich the research data. The collected data is then analyzed. qualitative analysis means that the data that has been collected is analyzed, namely providing descriptions using techniques to describe the legal phenomena being studied. And interpretation, in words, of the findings.

DISCUSSION

Stabat Religious Court Decision No. 1491/Pdt.G/2022/PA.Stb which firmly states that the heirs of the late Plaintiffs' father are Plaintiffs I to VI (six biological children) and the Defendant (the deceased's second wife). In other words, the six children (three boys and three girls) and the second wife are designated as the rightful heirs. According to the court's considerations, the defendant himself acknowledged that the six children were indeed the deceased's biological children. Because they are Muslim and there are no legal obstacles to inheritance (for example, killing the testator), both have the status of legal heirs. Article 174 of the KHI divides heirs into two main groups: blood relations and marital relations. Blood groups include blood relatives (such as children, parents, siblings, grandparents), while marital groups include widowers/widows. When all of these groups are present together, only children, parents, and widows/widowers have the right to inherit. In this case, the deceased left behind children (blood type) and a wife (marital type), so only they are covered. The children, as blood relatives, and the wife, as a widow, have the right to inherit. The fact that the defendant (the second wife) remained married to the deceased until his death (not divorced at the time of his death) confirms the valid marital status, so the wife is entitled to a share of the inheritance.

In Islamic inheritance law (KHI) when the testator leaves a wife and children, the wife gets $\frac{1}{8}$ of the share, while the remainder is passed down to the children on the principle that men get twice as much as women. The verdict reveals quantitatively: The defendant (wife) gets $\frac{9}{72}$ of the share ($\frac{1}{8}$ of the total) and each daughter gets $\frac{7}{72}$ of the share, the son gets $\frac{14}{72}$ of the share. The total share of the children is $\frac{63}{72}$ (three sons $\times \frac{14}{72}$ + three daughters $\times \frac{7}{72} = \frac{63}{72}$), plus $\frac{9}{72}$ of the wife to $\frac{72}{72}$. This ratio is in accordance with the provisions of KHI article 176(2) which requires men to get twice as much as women if they are together.

As an illustration: for example, assets of 72 million; then the wife gets 9 million, each son gets 14 million, each daughter gets 7 million. This division was calculated by the judge, who then ordered that the joint assets (2,184 m² of rice fields) between the deceased and his wife be divided equally, with the final proceeds being distributed to the heirs according to the above proportions. Thus, the decision is in line with the Islamic jurisprudence principle that the husband/wife receives 1/8 if the testator leaves children, and that a son receives twice as many daughters.

The plaintiffs in the lawsuit requested a security seizure of the inheritance because some of the assets had been sold by the defendant before the verdict. The panel responded to this request incidentally: after hearing testimony, the judge granted the seizure request. The clerk then placed a security seizure on the disputed object, as stated in the seizure report. In the verdict, the court clerk stated that the security seizure was valid and worthy of preservation. This action aimed to protect the inheritance assets from further loss. According to court data, 2,184 m² of rice fields had been sold by the defendant. The judge also ordered that the proceeds of the sale be returned and distributed to the heirs according to their respective portions. Overall, the panel placed the interests of asset preservation (through seizure) and fair distribution above all, ordering the inheritance to be distributed voluntarily or through auction if necessary. Thus, the verdict confirmed that all heirs who are *mustahiq* (entitled) receive their fair share according to Islamic inheritance law. According to Satjipto Rahardjo, legal protection means an effort to protect a person's interests by granting them rights or powers so that they can act in their own interests. In the context of heirs, inheritance law should ensure that their rights to inherited assets can be enforced.

The Stabat Religious Court Decision Number 1491/Pdt.G/2022/PA.Stb is a concrete example of how legal logic is applied in an inheritance case involving the complexity of a polygamous family structure. The Panel of Judges stated that those entitled to be heirs were six biological children (from the first marriage) and the second wife (the Defendant). The legal basis used was Article 174 of the Compilation of Islamic Law, which states that heirs include blood relatives and marital relations, as well as Article 5 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, which requires judges to explore the values of justice and living law in society.

However, considering the complexity of the status of a second wife whose marriage is

registered but premature due to the lack of a second marriage permit from the court, the second wife's position as an heir is significantly limited. In other words, in the context of inheritance, the second wife does not have inheritance rights as a wife whose marriage is formally flawed. Even if granted rights, they are generally limited to joint property (not full inheritance rights as heirs). For example, other heirs (children of the first wife) must still receive a portion of the inheritance according to religious/legal provisions. According to Sri Armani, In the practice of religious courts, we pay close attention to the formal and material validity of a marriage, especially when it comes to polygamous marriages. In accordance with the provisions of Article 3 paragraph (2) and Article 4 of Law Number 1 of 1974 concerning Marriage, as well as the Compilation of Islamic Law (KHI) Article 55, polygamy must meet certain conditions, including permission from the Religious Court. In the context of inheritance, if a judge finds that the second wife has a marriage certificate obtained without legal procedures, then this must first be tested in court, including by looking at the purpose, conditions of the marriage, and the accompanying legal facts.

Law No. 1/1974 Article 4 paragraph (1) stipulates that before remarrying, a husband is required to submit an application for permission for polygamy to the Religious Court in his area, and fulfill the requirements (the first wife's consent, the ability to provide for a living, and justice). If the husband continues to marry a second time without this permission, the marriage is not legally valid because it violates Articles 3 and 4 of the Marriage Law. The Supreme Court, through Circular Letter (SEMA) No. 2 of 2019, even emphasized that polygamy without permission does not have legal consequences for joint property and inheritance. This means that a second unregistered marriage cannot be recognized for the purposes of dividing joint property or inheritance. Therefore, property acquired while still married to the first wife is entirely joint property between the husband and the first wife, and cannot be claimed by the second wife whose marriage status is invalid. Thus, the second wife in this case should not have any rights to the joint property, let alone the husband's inheritance rights.

The Stabat District Court's decision granting inheritance rights to the second wife (whose marriage was not legally permitted) clearly violates the principles of legal justice and infringes on the rights of the first wife's children. Such a decision diverts a portion of the inheritance from those entitled (the first wife and her children) to a party whose status is not

recognized, thus creating substantive injustice. In terms of substantive justice, legitimate children lose a portion of their inheritance, and the first wife, who has become her husband's legal widow, is denied her proportional rights. The Stabat District Court's decision contains formal errors because it ignores provisions of positive law. Formally, the judge violated Law No. 1/1974 Article 4 by recognizing a second marriage without court permission. The Marriage Law prohibits a husband from remarrying without proper process; by not rejecting claims of unregistered marriages, the panel of judges failed to uphold this formal provision. Furthermore, the decision is inconsistent with Supreme Court Circular Letter No. 2/2019, which actually provides guidelines that unauthorized marriages do not give rise to inheritance rights. Substantively, this decision violates the principles of legal justice and the recognition of the rights of legitimate heirs. The inheritance rights of the first wife and children, which should be upheld, were ignored, resulting in injustice. Joint assets from the first marriage should not be divided among the second wife, who married without court permission.

CONCLUSION

An analysis of the Stabat Religious Court's decision No. 1491/Pdt.G/2022/PA.Stb reveals an error in considering the legality of a second marriage that lacked court approval. The court designated the second wife as the heir, even though, legally, the marriage did not meet the requirements for polygamy as stipulated in the Marriage Law and the Compilation of Islamic Law (KHI). This violates the principles of legal certainty, justice, and legal protection for the other parties (the first wife and her children), who have a stronger legal position. This decision demonstrates the need for consistency in the application of legal norms so that legal principles, particularly justice and certainty, can be fully upheld. Religious Courts need to increase accuracy and consistency in assessing the legality of polygamous marriages as a basis for determining heirs. Strict technical guidelines and jurisprudence are needed regarding inheritance status in polygamy to prevent decisions that conflict with legal principles.

The public should also understand that polygamy requires permits and certain legal procedures that must be met to avoid future disputes. The public must be aware of the importance of registration and legality at every stage of marriage so that the legal status of

the family can be legally accounted for, including in inheritance matters. Heirs who feel disadvantaged by a first-instance court decision that fails to fairly consider the formal legal aspects of marriage or inheritance rights are advised to pursue extraordinary legal remedies in the form of an appeal to the Supreme Court. This is crucial to ensure that the decision complies with applicable law and provides substantive justice for all parties concerned.

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