

PENYELESAIAN SENGKETA HARTA GONO-GINI PASCA PERCERAIAN: ANALISIS KAJIAN PUSTAKA TERHADAP KETIDAKPASTIAN HUKUM PEMBAGIAN HARTA BAWAAN YANG TERCAMPUR DENGAN HARTA BERSAMA DALAM YURISPRUDENSI MAHKAMAH AGUNG RI

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Abstract

This article aims to analyze the resolution of disputes over marital property following divorce, with a focus on the legal uncertainty surrounding the division of separate property that has been commingled with marital property in the case law of the Supreme Court of the Republic of Indonesia. This issue is important to examine because Indonesian marriage law essentially stipulates that assets acquired during marriage constitute joint property, while separate property remains under the control of each party; however, this provision has not provided detailed criteria regarding the legal status of separate property that has merged or become integrated into the household's economic life. Consequently, disputes over the division of assets following divorce often lead to differing interpretations, both regarding the standard of proof and in judicial deliberations, particularly when determining the boundary between individual and joint rights over an asset. This study employs a literature review method with a normative legal approach. The findings conclude that legal uncertainty in the division of separate property that has been commingled with joint property stems from the absence of clear normative parameters regarding the form of commingling, the extent of each party's contribution, and uniform evidentiary standards in judicial practice. Therefore, there is a need to strengthen regulations and develop more operational judicial guidelines so that the resolution of post-divorce marital property disputes not only reflects substantive justice but also ensures legal certainty and consistency in judicial decisions within the Indonesian judicial system.

Keywords: Marital property; divorce; separate property; joint property; Supreme Court jurisprudence; legal uncertainty.

Abstrak

Artikel ini bertujuan untuk menganalisis penyelesaian sengketa harta gono-gini pasca perceraian dengan menitikberatkan pada ketidakpastian hukum pembagian harta bawaan yang tercampur dengan harta bersama dalam yurisprudensi Mahkamah Agung Republik Indonesia. Permasalahan ini penting dikaji karena hukum perkawinan Indonesia pada dasarnya telah mengatur bahwa harta yang diperoleh selama perkawinan merupakan harta bersama, sedangkan harta bawaan tetap berada di bawah penguasaan masing-masing pihak, tetapi norma tersebut belum memberikan kriteria yang rinci mengenai status hukum harta bawaan yang telah melebur atau berkembang menjadi bagian dari kehidupan ekonomi rumah tangga. Akibatnya, sengketa pembagian harta pasca perceraian sering menimbulkan perbedaan penafsiran, baik pada tingkat pembuktian maupun dalam pertimbangan hakim, terutama ketika harus menentukan batas antara hak pribadi dan hak bersama atas suatu aset. Penelitian ini menggunakan