



Mediation in the Settlement of Inheritance and Joint Property Matters in the Medan Religious Court

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ABSTRACT

Conflict or dispute always exists in every human relationship in social interaction, common property is a thing that often triggers conflict in the family is known that not a few cases of conflict which resulted from the inheritance that goes to court. Disputes generally occur regarding rights and obligations that are classified in civil conflict issues can be resolved one of them by mediation both out of court and in court. Mediation in the settlement of civil cases can conducted at the beginning of litigation as well as during litigation against inheritance claims, joint property claims. Solution dispute specifically has the meaning that the dispute between husband and wife differences of opinion between the two parties due to property can also refer to disputes so that over this there is an imbalance ownership and need a good mediation process to equalize the position for both parties. This study aims to explain the legal power of mediation in court proceedings Religion Medan, the second to know the procedures for the division of inheritance and joint property according to compilation of Islamic law. Type of research used is empirical legal research with approach juridical sociological. The Data used is sourced from primary and secondary legal data analyzed qualitatively. The results of this study indicate that the legal power of mediation in the trial process in the Religious Court of Medan, namely with the deed of peace, the result of the peace agreement received legal certainty, the second division of common property according to the compilation of the law Islam is a husband or wife gets the same half because it is also seen based on taste fairness or good faith of one of the parties.

INTRODUCTION

Forests have an important role in holding water, regulating river flow, and minimizing the risk of flooding (Narindrani, 2018). When forests are cut down, the land that was previously covered by trees becomes exposed and is more easily absorbed by rainwater (Siregar & Silaban, 2020). In addition, trees and their roots that extend into the ground also function as filters that help absorb water and improve the quality of groundwater. Irresponsible logging of forests to expand agricultural land, plantations, or infrastructure development can change the flow of rivers, reduce the ability of forests to hold water, and it may increase the risk of flooding (Regulation of the Minister of Home Affairs (Permendagri), 2010). In addition, logging can also result in higher soil erosion and cause sedimentation in rivers, which can cause floods and landslides (Nura'ban, 2018). Deforestation in Aceh is caused by various factors, including companies entering the area to conduct industrial activities such as mining, plantations, and infrastructure development. These companies often exploit natural resources without regard to the impact on the environment and local communities (Dwi Atmanti, 2010).

Marriage is a sacred bond between a man and a woman, who love and cherish each other. It has become a basic necessity of life, when every human being will get married. In general, everyone wants to get married once in their lifetime. No intention *terbesit* if in the future have to get divorced, then married again with someone else, or choose to remain alone (Nagara, 2016).

But in reality it is not so. Not a few married couples, who eventually have to choose to separate alias divorce. Incompatibility factors in a number of ways, different perceptions and views of life, at least be some of the causes of divorce. Getting a divorce means going to court. Because the complaint process of a legal divorce lawsuit can only be reached through the court (I Kadek Leo Byasama Wijaya et al., 2021). The problem then is that many married couples are actually confused as well as difficulties, when taking the divorce process. The main factor is of course the law. Plus the process of filing a divorce lawsuit, which is basically convoluted. In fact, it is not uncommon, when the complicated divorce process drains a lot of funds (Anindya Harimurti, 2021).

In filing a divorce lawsuit, the reason for choosing a divorce is an important consideration for the court to follow up on the divorce lawsuit. The plaintiff must therefore choose a reason for divorce that is justified and lawful. On the other hand, the reason for divorce is also a consideration or

benchmark for the court in deciding a number of other issues that are closely related to the divorce process itself. For example, making child custody, child mental development needs, demands for living requests, and property disputes *gono-gini*. All of them are a unit of legal process that must be carried out as a whole (Risky, 2020). And requires a strategy, in order to avoid mistakes in taking steps and decisions. Carelessness that departs from ignorance of the legal process, as well as the absence of a strategy in conducting a divorce lawsuit process, will potentially cause physical, mental and financial losses. Discussion of the decision *Gono-gini* treasures taboo in the eyes of society (Utami & Dalimunthe, 2023).

Married couples usually only dispute the division of *gono-gini* property after a divorce decision from the court. Even in every court process there is often a commotion about the division of *gono-gini* property so that the condition further complicates the divorce process between them because each claims that "this and that" property is his part or right. This *gono-gini* treasure dispute is not thought of by the bride and groom who are getting married. They just think that getting married is forever. That is, not the slightest thought by them that someday divorce is possible. They only think about the *gono-gini* property at the time of the process or after the divorce. For this reason, it is necessary to bring up the topic of *gono-gini* property in public discourse. Society needs adequate knowledge about this issue that will actually open the horizons of our knowledge, that the *gono-gini* property needs to be known from the beginning of the marriage of a pair of prospective candidates (Suprianto, 2022).

Inheritance law is a rule that governs various aspects of the inheritance because of the death of an heir to his heirs or anyone given by the testator, in inheritance law regulated various things to divert the heir to the heir or the appointed either in the form of property or accounts payable left by the heir. In Islamic inheritance law a son or daughter women equally have the right to receive a share of inheritance either from his mother or his father was either only partially or completely of the inheritance left by the heir (Muhammad Zulhidayat, 2022).

Based on Islamic law inheritance can only occur if the fulfillment of various requirements set forth in the inheritance of Islamic law, the inheritance occurs if there is kinship with the heir or heir has died. Inheritance cannot be occurs if one of these conditions is not met. Marriage is a bond born and inner between a man and a woman as husband and wife with the intention of forming a a happy and

prosperous family. The right is something that should be accepted by someone after he fulfilled his obligations while the obligation is something that should be done by someone to get the rights of husband and wife must be faithful to each other and love respect and mutual assistance in birth and batin.

If in the family there are conflicts to the stage of divorce, it is worth exploring where property that is acquired at the time of marriage has occurred and where the property brought by each side husband and wife. In Islamic law, this property or joint property is the same joint property both obtained when the marriage has occurred or taken before marriage occurs. However, it is important to note that this property, which is brought by the husband and wife before marriage occurs so that later does not happen the problem of the husband taking the right of the property brought by the wife and vice versa iastri take property owned by the husband. Problems arising from the common property that is the combination of property with property. This often happens because the division inheritance at the time of marriage has occurred so that there is a mixture of property inheritance and joint property because the property is used for the benefit family. Mixing heritage often cause disputes before there was a divorce (Zubaidi, 2020). Dispute resolution in particular has the meaning that the dispute occurs between husband and wife differences of opinion between the two parties because the property can also refers showdown. So that over this there is an imbalance of ownership and there is a need for a policy to equalize the position for both parties.

The issue of gono-gini property is often a hot issue in our society. Which ultimately seized the attention of the media, especially the news of divorce among a number of artists who led to a dispute over the division of property gono-gini. Divorce cases related to the division of gono-gini property among artists or officials are often blown up by the mass media so that researchers are interested in making them in scientific writings.

METHOD

This study is designed with empirical legal research. Empirical Legal Research is research related to law and human behavior. Data source data is primary data obtained from the results of direct interviews from sources and respondents, this interview was conducted with informants and a guideline that is obtained through the medium of intermediaries or in indirect evidence in the form of a notebook that has been there or well-published archives and unpublished generally consisting of

primary legal material and materials secondary law also includes dictionary literature along with other scientific writings related to the subject matter examined (Gayo, 2023a).

RESULTS AND DISCUSSION

A. The obligation of mediation in the trial at the Medan Religious Court

The large amount of investment in Aceh is a topic that has been reviewed in various studies, reports and mass media news (Nivada, 2013) . This is because Aceh has great investment potential in various sectors, including tourism, fisheries, agriculture, and energy (Nivada, 2013) . In addition, data from the Investment Coordinating Board (BKPM) shows that in 2020, Aceh will attract investment of 7.9 trillion IDR ([Acehprov.go.id](https://acehprov.go.id), 2023), with the most desirable sector being mining, followed by the manufacturing and electricity sectors (Ali et al., 2018), gas (Westi utami, 2019), and water clean (Village Fund Smart Book, 2017). However, there are also reports that reveal the negative impact of investment in Aceh (Aminah, 2015). In fact, many investments in Aceh do not always provide benefits for the local community and even harm them (Pasaribu & Suradisstra, 2010). Mialnya Mulyaningrum et al., (2010) shows that the Aceh government's policy of providing investment incentives in the forestry and mining sectors does not always bring benefits to local communities and the environment. Furthermore, a report from Republika News paper (2023) reports that investment in Aceh has caused environmental and social damage such as land conflicts and environmental damage, especially in the mining and forestry sectors (Rahmatillah & Husen, 2018) . In addition, investment in the oil palm plantation sector has also been criticized for causing deforestation and undermining the environmental and social sustainability of local communities (Colchester et al., 2011; Macedonia, nd). The negative impact of these investments shows that the Aceh government must ensure that investment policies are not only oriented towards economic growth, but also pay attention to the welfare and sustainability of the environment and local communities (Indriane, 2019).

Mediation is a way of resolving disputes or other legal issues through the process negotiation or deliberation to obtain an agreement of the parties assisted by a mediator. The Mediator's position is in a middle and neutral position between the parties to the dispute and trying to find a number of agreements in order to achieve satisfactory results parties to the dispute both parties choose their

mediator respectively by the choice of the judge that there is a court that is not a judge who handles the case, the mediator it must also be certified that it has been recognized by legislation (Kucukali et al., 2022).

Implementation of mediation agreement between the two parties mediation is not opened general as the General Assembly in the usual unless the agreement of both parties. Mediation in general, carried out in one of the rooms located within the court where the matter was filed. Based on the new legislation period for carrying out mediation is further shortened by 10 days. Each of the parties to the power law for those who use the services of a lawyer and can also be represented by a lawyer if the party concerned can not attend because of illness and accompanied by a sick letter from a doctor or because of the limited distance from the parties concerned, and have interests that can not abandoned even more work done for the task of the state (Gayo, 2022a).

A peace deed is made when both parties have reached an agreement at the time of mediation accompanied by a mediator recognized by legislation. In the act peace that has the right to decide that is a judge who will deed the peace will be enclosed in a judge's decision. Deed of peace made based on the agreement both parties have the force of law equivalent to decision of the judge, therefore the agreement that has occurred and set forth in the deed of peace can not be denied for any reason including There is one party who felt aggrieved (Gayo, 2023b).

The function of the peace deed is the same as the usual agreement that binds both sides parties that will later serve as evidence of agreement from both parties. Act which will only bind the parties to the agreement, but accompanied by mediator to reach an agreement. The Mediator must be neutral, because whatever desire of both parties will be an agreement from both parties, if then the problem occurs again eat one party must file a case , but in the new case the decision can not be executed.(Gayo, 2022b).

B. Distribution Of Inheritance In Medan Religious Court

The division of inheritance in the medan religious court using the mechanism of Islamic law the word inheritance is a word taken from the Arabic language that has the meaning of inheriting if it is connected with the conditions that develop today the term inheritance can be interpreted as a transfer of rights or obligations including the assets of a person heir to heirs the law governing the division of inherited

property left by heirs knows the parts received from the inheritance of each entitled heir (Sugiswati, 2014).

Joint property is property acquired by a husband and wife when the marriage has occurred so joint property is property that becomes joint property obtained by a husband and wife when the marriage has occurred. Joint property is obtained at the time of the occurrence of the marriage bond either with their respective businesses or through the cooperation of the husband and wife at the time of marriage has occurred (*Wawancara PA Medan: Pembagian Waris Dalam islam*, 2023)

Husband or wife without the consent of one of the parties is not allowed to sell or transfer the joint property in this case both husband and wife. Each has a responsibility to maintain joint property liability of a husband or wife is returned on each side. If there is a debt for the common good or the interests of the family, the debt is settled using the common property, if the debt cannot be resolved using the common property, the debt is charged in the property of the husband and wife (Duha, 2024).

Joint property according to Islamic law is a property acquired by the husband and wife when it comes to wealth, there is no own labor, if later one of the parties dies or divorce occurs then the property it is divided equally because it is obtained by cooperation. Joint property in a marriage intended to be able to meet the needs of the family both for a husband, a wife or a child therefore to be able to use the joint property must based on the decision by both parties husband or wife, because the joint property cannot be controlled by one party only (Maswandi et al., 2022).

Division of joint property in Islamic law at the time of divorce the procedure division of joint property according to the laws of the bride and groom. When the two sides of islam then the division of common property is done based on Islamic law or compilation of Islamic law, if one of the spouses is of a different religion, then the division of common property is carried out on the basis of civil law in force or based on customary law (*Wawancara Mediator PA Medan Dina Mary: Mediasi Pembagian Harta Bersama Pada Saat Proses Perceraian*, 2024).

The division of common property stipulated in Islamic law is a form of foster a sense of justice for all parties because in the division of common property is not look at who gets the income at the time of marriage. However, here a question arises as to whether the arrangement regarding the division of property together it can happen for all groups or only apply to certain groups interested only.

The division of the common property between the husband and the wife is only with a sense of justice in terms of both husband and wife equally perform a role that can maintain the integrity and survival of the family. Husband or wife is entitled to half of the property together is based on the role played by either husband or wife as a partner complement each other in an effort to foster the integrity and sustainability of the family.

In marriage there is the meaning of property gono gini, when later the occurrence a divorce then the division of property gono gini can be done in deliberation consensus between the two parties and can also be based on the decision of the court. Deliberations or the court decision is not always the division of property is decided by the percentage division 50% but could be more, here need to be explored which party is indeed bringing more treasure much or less. The division of the estate of gono gini considerations of a judge have to see which of these problems really bring more wealth or which one is less, because it often happens that carrying less treasure demands to more or less equal to the one who brings more wealth.

CONCLUSION

Legal force of mediation in court proceedings in the Religious Court of Medan, namely in the presence of a deed of peace or a letter of peace, the results of the peace agreement received legal certainty even has the power executorial or have the same legal force as the court decision, the second division inheritance and joint property according to the compilation of Islamic law is a husband or wife gets the same half because it is seen also based on a sense of justice or good faith of one one side. Because in a family is not only seen who gets the treasure but one of the parties has its own role, this is where it must highlight the sense of justice and good faith from both sides.

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