

IMPLEMENTATION OF SEPARATION OF ASSETS IN A MARRIAGE AGREEMENT IN THE FORM OF A NOTARY DEED (CASE STUDY IN KAMPAR DISTRICT IN 2020)

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Abstract: *The marriage/prenuptial agreement is an agreement made before the marriage takes place and binds both parties to the bride and groom who will be married and is valid since the marriage took place. The main problem is how to implement the separation of assets in a marriage agreement (marriage agreement) in the form of a notarial deed in Kampar Regency in 2020 and what are the obstacles and efforts to implement the separation of assets in a marriage agreement (marriage agreement) in the form of a notarial deed.*

Key Words: *Separation of Assets, Marriage Agreement, Notary.*

1. INTRODUCTION:

The marriage agreement is a means to protect the property of the bride and groom. Through this agreement, the parties can determine their respective assets. In Indonesia, a special provision regarding the term "marriage agreement" is an agreement made by the prospective husband and wife before the marriage takes place and is ratified by the Marriage Registrar (PPN) at the Office of Religious Affairs (KUA). The marriage agreement must be made in writing, and made before the marriage takes place, and comes into effect from the time the marriage takes place. The agreement is attached to the marriage certificate and is an inseparable part of the marriage certificate, and the marriage agreement is made by mutual consent or will, and must not conflict with law, religion and decency.[1]

2. THEORITICAL FRAMEWORK The:

a. Agreement Theory

According to Setiawan, an agreement is a legal act in which one or more persons bind themselves to one or more persons.[2]

b. School of History

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is implemented, that those entitled by law can obtain their rights and that decisions can be implemented.[3]

c. Theory of Legal Protection

According to Satjipto Raharjo, legal protection is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law.[4]

3. LITERATURE REVIEW:

Hilman Hadikusuma argues that an agreement is an agreement made by two or more parties, each of which promises to comply with what is stated in the agreement.[5]

The marriage agreement is a form of mutual agreement made by the prospective bride and groom, both male and female before the marriage takes place and the contents of the agreement bind the marital relationship.[6]

5. METHOD:

The method used in this research is an empirical juridical approach or in other words is a type of sociological legal research and also known as field research, which examines the applicable legal provisions and what happens in reality in society.[7]

6. DISCUSSION:

As a result of a marriage having a fairly broad dimension, including social and legal, starting at the time of marriage, during marriage and after marriage, therefore the marriage agreement also includes matters that if possible

can potentially cause problems during the marriage, including regarding the rights and obligations of husband and wife in marriage and can also regulate freedom of work and creativity including pursuing sports, hobbies and so on. Apart from the pros and cons, the marriage agreement is more concerned with the separation of income and assets during the marriage as well as in the event of divorce or death, while problems in the field regarding the distribution of joint property in the marriage agreement have many obstacles, namely the parties do not have good intentions. both in terms of violating the contents of the marriage agreement, the parties do not have good intentions in terms of debts with third parties and so on.

7. ANALYSIS:

A. Implementation of the separation of assets in a marriage agreement (*marriage agreement*) in the form of a notarial deed in Kampar Regency in 2020

A marriage agreement can occur because one partner has greater assets, there are innate assets carried by each partner in large amounts, each each party has its own business so that if there is bankruptcy or bankruptcy against one party, the other party does not share in the bankruptcy and there is a debt before the marriage is carried out so that each party must personally be responsible for the debt. At or before the marriage takes place, both parties can enter into a written agreement regarding the position of property. The contents of the agreement are regarding the mixing of assets and the separation of the assets of each party as long as it does not violate Islamic rules. The husband is still obliged to meet the needs even though a marriage agreement has been made with the separation of the company's (joint) assets.

B. Obstacles and Efforts to Implement the Separation of Assets in the *Marriage Agreement* in the Form of the Notary Deed

Regarding the main obstacle in implementing the marriage agreement, if there is a divorce there is no report to them. This is understandable, because the parties feel this is a family matter, even though from an administrative point of view they need to re-enumerate the list of records of the marriage agreement they received, in order to know the development of the level of public awareness in making agreements and recording marriage agreements in general, at least Strata one (S1) and economically they are quite well established, and judging from the beliefs they hold, while those who make marriage agreements are mostly Christians and Buddhists compared to those who are Muslims.

8. CONCLUSION :

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) Implementation of the separation of assets in the marriage agreement (*marriage agreement*) in the form of a notarial deed in Kampar Regency in 2020, which must be made with a notary deed made before a notary, made by the parties, namely the prospective husband and prospective wife or husband and wife before a notary, as for the contents of the deed The marriage agreement must state that the separation of assets must not conflict with Islamic law and the provisions of the applicable laws and regulations, while the marriage agreement, including the separation of husband and wife's assets, is currently officially recorded at the Office of Religious Affairs (KUA).
- 2) Obstacles in the implementation of the separation of assets in a marriage agreement (*marriage agreement*) in the form of a notarial deed, namely husband and wife have bad intentions in terms of debts owed to third parties, the prospective husband or wife violates the contents of the marriage agreement, during the course of the marriage the husband or wife violates the contents of the marriage agreement , there is a civil dispute regarding the contents of the marriage agreement, the agreement can only be changed with the consent of both husband and wife, and does not harm the interests of third parties, and is legalized by the marriage registrar.

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