

ABSTRAK

Penelitian ini bertujuan untuk mengetahui bagaimanakah putusan hakim tentang pembagian harta bersama dan hutang istri tanpa sepengetahuan suami di Pengadilan Agama Semarang dan bagaimanakah analisis hukum Islam terhadap putusan hakim tentang pembagian harta bersama dan hutang istri tanpa sepengetahuan suami di Pengadilan Agama Semarang. Metode penelitian ini menggunakan pendekatan yuridis normatif. Pendekatan yuridis berkaitan dengan penelusuran dan pengkajian terhadap putusan hakim dan teori hukum Islam yang berkaitan dengan pembagian harta bersama dan hutang istri tanpa sepengetahuan suami. Pengumpulan data dilakukan melalui penelitian kepustakaan dan penelitian lapangan. Penelitian kepustakaan dilakukan dengan cara mempelajari peraturan perundang-undangan, putusan hakim dan buku-buku karya ilmuwan. Penelitian lapangan dilakukan di Pengadilan Agama Semarang dengan mengambil putusan Nomor 0008/Pdt.G/2011/PA.Sm., Nomor 063/Pdt.G/2012/PTA.Smg. dan Nomor 367/K/Ag/2013, dengan melakukan komunikasi dengan praktisi (hakim) dan pejabat administrasi sesuai pedoman wawancara. Berdasarkan hasil penelitian menunjukkan : (1) Putusan Pengadilan Agama Semarang Nomor 0008/Pdt.G/2011/PA.Sm. memuatkan harta benda yang diperoleh selama perkawinan menjadi harta bersama. Akibat perceraian, maka janda dan duda, masing-masing berhak seperdua bagian dari harta bersama tersebut, hal ini sesuai dengan ketentuan Pasal 35 Undang-Undang Nomor 1 Tahun 1974 dan Pasal 97 Kompilasi Hukum Islam. Sedangkan untuk pelunasan hutang istri sebesar Rp280.000.000,00 tanpa sepengetahuan suami yang digunakan untuk kepentingan pribadi adalah menjadi tanggung jawab istri. Sedangkan putusan Pengadilan Tinggi Agama Semarang Nomor 063/Pdt.G/2012/PTA.Smg. memutuskan harta benda yang diperoleh selama perkawinan menjadi harta bersama. Akibat perceraian, maka janda dan duda, masing-masing berhak seperdua bagian dari harta bersama tersebut. Sedangkan hutang-hutang bersama suami istri dikesampingkan karena hutang-hutang tersebut tidak diminta oleh suami dalam petitumnya, tetapi hanya digeneralisir terhadap jumlah nilai harta dikurangi hutang-hutang bersama. Adapun putusan Mahkamah Agung RI Nomor 367/K/Ag/2013 memutuskan membatalkan putusan PTA Semarang Nomor 063/Pdt.G/2012/PTA.Smg. dan memutuskan sama dengan putusan Pengadilan Agama Semarang Nomor 0008/Pdt.G/2011/PA.Sm. Hanya saja putusan Mahkamah Agung memuatkan hutang istri sebesar Rp280.000.000,00 tanpa sepengetahuan suami, dipandang untuk kepentingan keluarga maka termasuk harta bersama, karena itu pelunasannya menjadi tanggung jawab bersama suami istri. (2) Analisis hukum Islam terhadap putusan hakim tentang pembagian harta bersama dan hutang istri tanpa sepengetahuan suami adalah bahwa putusan Nomor 0008/Pdt.G/2011/PA.Sm. dan putusan Nomor 367/K/Ag/2013 adalah sesuai dengan ketentuan Pasal 35 Undang-Undang Nomor 1 Tahun 1974 dan Pasal 97 Kompilasi Hukum Islam. Tetapi hutang istri sebesar Rp280.000.000,00 tanpa sepengetahuan suami, oleh Mahkamah Agung RI dipandang untuk kepentingan keluarga, maka hutang tersebut termasuk harta bersama, oleh karena itu pelunasannya menjadi tanggung jawab bersama suami istri. Dengan demikian maka menurut penulis putusan Pengadilan Agama Semarang Nomor 0008/Pdt.G/2011/PA.Sm. adalah putusan yang sangat tepat karena putusan tersebut adalah putusan yang mencerminkan kemanfaatan, mencerminkan kepastian hukum dan mencerminkan rasa keadilan.

Kata kunci : putusan hakim, harta bersama, hutang istri tanpa sepengetahuan suami

ABSTRACT

This study aims to determine how the judge's ruling on the division of joint property and the wife of debt without the knowledge of her husband in the Religious Court of Semarang and analysis of how Islamic law against the judge's decision on the division of joint property and the wife of debt without the knowledge of her husband in the Religious Court of Semarang. This research method using normative juridical approach. Juridical approach with regard to search and study into the judge's ruling and Islamic legal theory relating to the division of joint property and debt without the knowledge of her husband's wife. Data collected through library research and field research. Library research done by studying the legislation, the judge's ruling and books by scientists. Field research was conducted in the Religious Court of Semarang with taking the decision No. 0008/Pdt.G/2011/ PA.Sm., No.063/Pdt.G/2012/PTA.Smg. and No. 367/K/ Ag/ 2013, for communication with practitioners (judges) and the appropriate administration official guidelines for the interview. Based on the results showed: (1) Semarang Religious Court Decision No. 0008/ Pdt.G/2011/PA.Sm. decided property acquired during the marriage become community property. As a result of divorce, the widows and widowers, each entitled to one-half part of the joint property, it is in accordance with the provisions of Article 35 of Law No. 1 of 1974 and Article 97 of the Compilation of Islamic Law. As for the debt repayment amounted Rp280.000.000,00 wife without the knowledge of her husband being used for private purposes is the responsibility of the wife. While the High Court Religion Semarang No. 063/Pdt.G/2012/ PTA.Smg. decided property acquired during the marriage become community property. As a result of divorce, the widows and widowers, each entitled to one-half part of the joint property. While the debts of husband and wife jointly ruled out because the debts are not requested by the husband in petitum, but only generalized to the total value of assets less debts together. The Supreme Court's decision No. 367/ K/ Ag/ 2013 decided to cancel the decision of PTA Semarang No. 063/Pdt.G/2012/ PTA.Smg. and decide together with the decision of the Religious Court of Semarang No. 0008 / Pdt.G/ 2011/ PA.Sm. Only the Supreme Court ruling memu-Tuskan debt amounted Rp280.000.000,00 wife without the knowledge of her husband, was seen for the sake of the family, including joint property, since it is callable the joint responsibility of husband and wife. (2) Analysis of Islamic law against the judge's decision on the division of joint property and debt without the knowledge of her husband's wife is that the decision No. 0008/ Pdt.G/ 2011/ PA.Sm. and Decision No. 367 / K/ Ag/ 2013 is in accordance with the provisions of Article 35 of Law No. 1 of 1974 and Article 97 of the Compilation of Islamic Law. But debt amounted Rp280.000.000,00 wife without the knowledge of her husband, by the Supreme Court is seen for the sake of the family, then the debt including joint property, therefore repayment becomes a shared responsibility of husband and wife. Thus, according to the author of Religion Semarang Court decision No. 0008/ Pdt.G/2011/PA.Sm. is a very appropriate decision because the decision is a decision that reflects expediency, reflecting legal certainty and reflects a sense of justice.

Keywords : the judge's ruling, joint property, the debt without the knowledge of her husband's wife