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## Analysis Of The Decision Of The Karawang Religious Court Number 555/Pdt. G/2024/Pa. Krw On The Determination Of Joint Property In Polygamy Permit Cases To Prevent Family Conflicts<sup>1</sup>

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### Abstract:

The allocation of joint assets in polygamous unions involves distinct complexities that necessitate well-defined legal provisions to avert potential conflicts within the family. This research analyzes how legal rules governing joint property in polygamous marriages are implemented, as illustrated in Decision No. 555/Pdt.G/2024/PA.Krw. Utilizing a normative juridical approach combined with a case study method, the study incorporates qualitative analysis of judicial decisions, statutory law, and pertinent legal doctrines. The results reveal that the panel of judges relied on Article 35 of Law No. 1 of 1974 and Article 94 of the Compilation of Islamic Law, both of which mandate that joint property be divided separately for each marital relationship. This measure is intended to ensure legal certainty, safeguard the ownership rights of the first wife, and prevent future disputes. Judicial considerations also included the explicit consent of the first wife and sufficient financial capability of the applicant as prerequisites for granting polygamy. The study concludes that separating joint property in polygamous marriages serves as a preventive legal protection for wives while embodying the principles of justice and legal certainty within the religious court system.

**Keywords:** Marriage; Common Property; Polygamy; Joint Assets

## A. INTRODUCTION

Marriage is a bond of birth and mind between a man and a woman to form a harmonious, prosperous, and lasting family, based on the principle of the One Godhead. Marriage is seen as an akad or mitsaqan ghalizan, which has the essential purpose of upholding obedience to Allah and implementing provisions of Islamic law (Article 2 of the Compilation of Islamic Law). State recognition of marriage is detailed in the Marriage Law, which stipulates that marriage must be carried out in accordance with

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the laws of each religion and publicly announced, thereby mandating compliance with applicable provisions. Based on these provisions, no religion legalizes or justifies interfaith marriage (Heriawanto, 2019). Although in principle Indonesian law stipulates monogamy, namely one husband and one wife as a form of legal marriage, the rule of law also opens up the possibility of polygamy as long as certain conditions are met. Article 3, paragraph (1) of the Marriage Law regulates the principle of monogamy, which states that a man is justified in having a wife. This provision is intended to encourage and strengthen the implementation of the monogamous system, although polygamy remains regulated in a limited way. In this context, it is important to note that although the role of property in polygamy remains unclear, the principles of fairness and propriety must still take precedence. This is important to prevent discrimination against women in polygamous institutions. Therefore, the judge must give careful, in-depth consideration to the distribution of common property in accordance with the applicable principles of justice. Plato, as quoted in the work *Fence Wantu*, stated that justice is the ability to carry out a task according to a predetermined plan. It can be stated that justice is the sum of activities whose morality must be based on moral values, not just human values (Wantu, 2011).

For polygamy to be a priority, a family member must fulfill all his or her responsibilities and obligations. In this study, the polygamous marriage discussed is legal according to national law and religious law. If a polygamous marriage is invalid or illegal, then no law requires both wives to share property. In the practice of polygamy related to social dynamics, the presence of a second wife often influences or triggers inequality in the marital relationship. Within the framework of polygamy, the position of the first wife and the second wife is equal before the law. However, the incompatibility and confusion between them do not expressly or clearly reveal the fundamental differences. In a polygamous marriage, the issue of joint property becomes complex and has the potential to harm the new wife if the recording is not done correctly and responsibly. Regardless of differences of opinion and assessment of the advantages and disadvantages of polygamy, it is undeniable that this practice is a complex and fascinating issue to study. In practice, there are still many who practice polygamy without fully meeting the conditions set by state law and religious provisions. This makes the position and rights of the wife in a polygamous marriage uncertain. Regarding common property, there are no laws and regulations that expressly regulate it, although polygamy is still widely practiced. The discussion focused on the division of property in polygamous marriages in accordance with Indonesian laws and regulations, as well as an analysis of the legal considerations judges use to determine joint property.

## **B. METHOD**

According to Sugiyono, research is a scientific method that aims to collect data appropriately and proportionately. Through research, knowledge can be found, developed, and tested for truth, so that the results can be used to understand, solve, and prevent various problems (Efendi, 2016).

This research is presented as a normative legal study, employing a qualitative

method within a normative juridical approach. According to Mukti Fajar, ND, and Yulianto, normative juridical research views law as a system of norms or rules that are systematically arranged. The system includes legal principles, rules, and provisions, as well as court decisions, agreements, and legal doctrines or teachings. In normative law research, the norms or provisions under study include laws, government regulations, and other regulations (Kristiawanto, 2022).

Thus, the material analyzed in normative law research is in the form of reference material, with secondary data as the primary source and primary data as a complement. The scope or focus of the study, which is the point of attention of this study, is the legal force of the determination of joint property in polygamous marriage in the religious justice system in Indonesia.

For data collection, the author will use secondary data from relevant literature. To discuss it thoroughly, literature reviews are conducted by collecting secondary data from library books. This process involves learning and quoting from books, articles, legal journals, and legal rules related to the study. The data analysis technique is grounded in legal reasoning, which explains law as relational and tied to diversity, and serves as the basis for legal reasoning (Suryadi et al., 2023).

## C. RESULTS AND DISCUSSION

### 1. Indonesian Legal Provisions related to the Division of Joint Property in Polygamous Marriage

According to Islamic law, a husband and wife have the full right to manage their personal property without interference from others. Property that has been owned before marriage or obtained from gifts, inheritances, or dowries remains the personal right of each party. The principle upheld is justice, which means giving the owner their rights without reducing or harming other parties.

Law Number 1 of 1974 does not regulate property matters in marriage, including polygamy. Article 35, paragraph (1) states that property obtained during marriage is joint property, while inherited property, gifts, or inheritances remain private property unless otherwise agreed. Article 37 provides that, upon divorce, the division of joint property is governed by the applicable law, whether religious, customary, or other appropriate law.

The position of the wife in polygamous marriage, as regulated in laws and regulations, is basically in line with the principle of justice in the household. This refers to Article 31, paragraph (1). It is emphasized that the position of the wife is on the same level as that of the husband, both in rights and obligations. This provision

implies that the wife's right to joint property is on an equal footing with the husband's rights, without any distinction in treatment. In practice, the distribution of common property is usually carried out in a balanced manner, namely, each party obtains 50% of the total value of the property, as a means of applying the principle of equality and legal protection for both parties (Fitrianti, 2017).

The Compilation of Islamic Law (KHI) contains various provisions on joint ownership. Article 85 of the KHI emphasizes that the existence of joint property during marriage does not deprive either party of their own property, whether acquired before or after the marriage. Especially in polygamous marriages, Article 94 of the KHI regulates the division of property explicitly, together with the separation of assets in each marriage, to provide clarity in the management and separation of property.

According to Article 94, paragraph (1), of the KHI, the common property obtained from a marriage involving a husband and a double wife must be allocated separately to each marital relationship, treating each marriage as an autonomous unit, independent of the others. This principle shows that in polygamous marriages, joint assets are given separately for each marriage, whether it is the first, second, or subsequent. In addition, Article 94, paragraph (2), shows that the assessment of joint property in polygamous arrangements begins from the moment the subsequent marriage occurs, whether it is a second, third, or fourth marriage.

Then, on April 4, 2006, the Supreme Court of the Republic of Indonesia, through the Decree of the Chief Justice of the Supreme Court Number KMA/032/SK/IV/2006, stipulated improvements to Book II, concerning Guidelines and Judicial Administration. One of the points regulated in it includes provisions regarding various general problems that arise in the practice of polygamy, which contains several rules and implementation guidelines to ensure administrative order and legal certainty:

- a. In addition to granting polygamy permits to the Religious Court, the husband must also give polygamy permits to property along with the wife, before the polygamy permit.
- b. Assets generated during the first marriage with the wife are understood as joint ownership that is distinct from assets acquired jointly with subsequent wives, and so on.
- c. The distribution of joint property due to divorce or death of one of the parties is carried out in stages, with a certain percentage according to the order of marriage, starting from the last wife to the first, namely half, third, quarter, and one-fifth of the property obtained jointly by each wife.

In marital polygamy, as above, the purpose of the Supreme Court is to observe the ownership and rights of the first wife to the husband. Therefore, the Supreme Court affirmed that there is a separation between the joint property ownership of the husband and the previous spouse before the implementation of polygamy.

Thus, Islamic teachings expressly emphasize the importance of orderly, accountable record-keeping by wives in the division of joint property. This mechanism is implemented to prevent conflicts among wives and to ensure the rights of the first wife are protected.

## 2. Analysis of the Judge's Considerations Regarding the Determination of Joint Assets in Polygamous Marriage in the Decision of the Karawang Religious Court Number 555/Pdt.G/2024/PA. Krw

Regarding the judges presiding over the case, the local court carefully conducts all proceedings in accordance with the protocols and procedures set out in advance. For people who practice Islam, the settlement process is handled by the Religious Court, while for people who practice other religions, it is handled by the District Court.

According to the chronology in this case, on October 9, 1997, the Applicant married the Respondent, and they lived together as husband and wife. After the marriage, the applicant and the respondent lived together in their house. During this time, the Applicant and the Respondent lived a typical married life, but the household had been operating for about 26 years, and no babies or children were born.

The applicant then established a polygamous relationship with a woman who was hereinafter called the second wife-to-be. The respondent openly acknowledged the prospective wife as the applicant's legal wife, and the admission was accompanied by a statement that the respondent neither regretted nor rejected the applicant's proposal. In addition, the applicant was accompanied by a second wife-to-be who expressly conveyed her intention to marry the applicant. This condition ultimately creates understanding and common ground among the applicant, the respondent, and the second wife-to-be, enabling reconciliation and mutual agreement on the marriage plan.

In addition to evaluating and deciding on the application for a polygamous license, the panel of judges also took action to clearly establish the division of joint property between the applicant and the respondent, the determination of which plays an important role in ensuring that the assets acquired during the first marriage remain separate and not mixed with the common property that may be obtained from the subsequent marriage, thus creating legal certainty.

From the procedures carried out by the judge in investigating the polygamy case (Case Number 555/2024), it is clear that the elements that are the subject of the judge's study in making his decision are clear:

- a. The legal basis that allows polygamy is the provision that the first wife cannot give offspring, as stipulated in Article 4 paragraph (2) letter c of Law Number 1 of 1974 and Article 58 of the Compilation of Islamic Law.
- b. Consent from the wife. The Respondent has allowed and expressed his willingness and has no objection to being honeyed.
- c. Economic ability. Based on the Applicant's experience and the Witness's testimony, it is clear that the Applicant's ability to meet the family's needs is made possible by the Applicant's monthly income of Rp70,000,000 (seventy million rupiah), as evidenced by a certificate of income.
- d. Guarantee is fair. The applicant stated that he would treat his wives fairly. Therefore, based on the reasons given, the Judge ruled that the Applicant was allowed to engage in polygamy.
- e. There are no obstacles to marriage listed in Article 8 of Law Number 1 of 1974 and Articles 39 to 44 of the Compilation of Islamic Law.

Determination of joint property so that the property of the first wife is separated from the property of the next marriage. As a result of this process, the former wife (the Respondent) has a legal status that cannot be disturbed by anyone, except for the common interest of the family of the former husband and wife.

The decision is considered valid in accordance with the provisions of Article 94 paragraph (1) of the Compilation of Islamic Law (KHI), which applies within the Religious Court. This validity is further strengthened by the Panel of Judges, which considers the condition of the applicant and the respondent and notes that the polygamy license has been officially obtained.

As previously described, the Panel of Judges' approval of polygamy for the applicant (husband) actually strengthens the relationship between the applicant and the respondent. This action is in accordance with the provisions contained in Article 35 paragraph (1) of Law Number 1 of 1974 and Article 94 paragraph (1) of the KHI. In this situation, the Panel of Judges successfully carried out its duties by prioritizing the principle of legal certainty, maintaining order, and ensuring benefits to all those involved.

#### **D. CONCLUSION**

The division of joint property in polygamous marriages is specifically regulated through the guidelines of the Supreme Court, which affirm that each marriage bond in polygamy has a separate calculation of joint property, so that property from the first marriage is not mixed with property from the subsequent marriage. This arrangement is designed to protect each party's property, especially the rights of the first wife, while preventing future disputes. The foundation is based on the principles of justice, legal certainty, and the protection of rights, in accordance with applicable regulations.

In case Number 555/Pdt.G/2024/PA. The Panel of Judges has decided to grant the request for polygamy after assessing that the reasons put forward are in line with existing legal regulations, including the first wife's explicit consent and proof of the

applicant's sufficient financial ability to support more than one household. In addition to allowing polygamy, the judge also clearly gave a ruling to separate the joint property between the first marriage and the subsequent marriage, as a preventive measure to prevent possible future disputes. This decision illustrates the consistent application of Article 35 of Law Number 1 of 1974 and Article 94 of the Compilation of Islamic Law, as well as affirming the commitment of religious courts in protecting the rights of the first wife in the context of polygamous marriage.

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## **Court Ruling**

Decision of the Karawang Religious Court Number 555/Pdt.G/2024/PA. Krw