

RINGKASAN

Hikmah Yana Sembiring **Analisis Yuridis Terhadap Penetapan Pengadilan Negeri Nomor 916/Pdt.P/2022/PN.Sby. Tentang Putusan**
NIM: 210510105 **(Jumadiyah, S.H., M.H., & Fauzah Nur Aksa, S.Ag., M.H)**

Perkawinan merupakan ikatan lahir dan batin antar seorang laki-laki sebagai suami dan wanita sebagai seorang isteri dengan tujuan untuk membentuk keluarga yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa. Ketentuan Pasal 2 ayat (1) Undang-Undang Nomor 1 Tahun 1974 menegaskan bahwa perkawinan sah apabila dilakukan menurut hukum agama masing-masing. Namun dalam praktiknya, Pengadilan Negeri Surabaya melalui Penetapan Nomor 916/Pdt.P/2022/PN.Sby justru mengabulkan permohonan perkawinan beda agama meskipun terdapat Putusan Mahkamah Konstitusi Nomor 68/PUU-XII/2014 yang melarangnya.

Penelitian ini bertujuan untuk mengetahui Dasar hukum yang digunakan hakim dalam Penetapan Pengadilan Negeri Surabaya Nomor 916/Pdt.P/2022/PN.Sby ketentuan Pasal 29 ayat (2) dan Pasal 28B ayat (1) UUD 1945, Pasal 35 huruf (a) UU Adminduk, serta Putusan MA No. 1400 K/Pdt/1986, namun bertentangan dengan Pasal 2 ayat (1) UU Perkawinan. Akibatnya, anak yang lahir dari perkawinan beda agama hanya memiliki hubungan perdata dengan ibu dan keluarga ibu, tanpa nasab dengan ayah, yang berdampak pada hak waris dan perwalian serta menimbulkan ketidak pastian hukum.

Metode Penelitian ini merupakan penelitian hukum normatif yang berfokus pada kajian literatur dan peraturan perundang-undangan khususnya mengenai pengesahan perkawinan beda agama oleh pengadilan negeri. sifat penelitian ini bersifat deskriptif, yaitu menggambarkan dan menjelaskan kondisi objek penelitian secara faktual dan sistematis.

Hasil penelitian menunjukkan bahwa Penetapan PN No. 916/Pdt.P/2022/PN.Sby. ketentuan Pasal 29 ayat (2) dan Pasal 28 B ayat (1) UUD 1945, Pasal 35 (a) UU No. 23 Tahun 2006 tentang Administrasi Kependudukan, serta Putusan MA No. 1400 K/Pdt/1986. Pertimbangan tersebut dimaksudkan untuk melindungi hak konstitusional warga negara agar tetap dapat mempertahankan agama masing-masing dan tetap memiliki kesempatan membentuk keluarga. Namun, putusan ini bertentangan dengan Pasal 2 ayat (1) UU No. 1 Tahun 1974 yang menegaskan sahnya perkawinan hanya apabila sesuai hukum agama. Secara yuridis, hal ini menimbulkan ketidakpastian hukum serta akibat anak hanya memiliki hubungan perdata dengan ibu tanpa hak nasab dengan ayah biologisnya yang berdampak pada hilangnya hak waris maupun hak perwalian penelitian ini menyarankan perlunya revisi regulasi serta konsistensi hakim demi kepastian hukum.

Kata kunci : Analisis Yuridis, Penetapan Pengadilan, Perkawinan Beda Agama

SUMMARY

Hikmah Yana Sembiring **Juridical Analysis Of The District Court Decision Number 916/Pdt.P/2022/PN.Sby Concerning The Decision**
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Marriage is a physical and spiritual bond between a man as husband and a woman as wife with the aim of forming a happy and eternal family based on the One Almighty God. The provisions of Article 2 paragraph (1) of Law Number 1 of 1974 emphasize that a marriage is valid if it is carried out according to the laws of each religion. However, in practice, the Surabaya District Court through Decision Number 916/Pdt.P/2022/PN.Sby actually granted the request for interfaith marriage even though there is a Constitutional Court Decision Number 68/PUU-XII/2014 which prohibits it.

This study aims to determine the legal basis used by the judge in the Surabaya District Court Decision Number 916/Pdt.P/2022/PN.Sby provisions of Article 29 paragraph (2) and Article 28B paragraph (1) of the 1945 Constitution, Article 35 letter (a) of the Population Administration Law, and Supreme Court Decision No. 1400 K/Pdt/1986, but contradicts Article 2 paragraph (1) of the Marriage Law. As a result, children born from interfaith marriages only have a civil relationship with the mother and the mother's family, without lineage with the father, which has an impact on inheritance and guardianship rights and creates legal uncertainty.

This research method is a normative legal research that focuses on the study of literature and laws and regulations, particularly regarding the ratification of interfaith marriages by district courts. The nature of this research is descriptive, namely describing and explaining the conditions of the research object in a factual and systematic manner.

The results of the study indicate that the PN Decision No. 916/Pdt.P/2022/PN.Sby. provisions of Article 29 paragraph (2) and Article 28 B paragraph (1) of the 1945 Constitution, Article 35 (a) of Law No. 23 of 2006 concerning Population Administration, and Supreme Court Decision No. 1400 K/Pdt/1986. These considerations are intended to protect the constitutional rights of citizens to maintain their respective religions and still have the opportunity to form a family. However, this decision contradicts Article 2 paragraph (1) of Law No. 1 of 1974 which emphasizes that a marriage is valid only if it is in accordance with religious law. Legally, this creates legal uncertainty and results in the child only having a civil relationship with the mother without lineage rights with his biological father which results in the loss of inheritance rights and guardianship rights. This study suggests the need for regulatory revisions and consistency of judges for legal certainty.

Keyword : Juridical Analysis, Court Decree, Interreligious Marriage