

Legal Certainty in the Division of Joint Property after Divorce

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Abstract

This study aims to analyze the legal certainty in the distribution of joint property after divorce, with an emphasis on the challenges faced in the implementation of the law in Indonesia. The division of joint property is a crucial issue in the context of divorce which often causes disputes between former spouses, where the principles of justice and equality should take precedence. In this study, a normative juridical approach is used to examine laws and regulations, legal doctrines, and court decisions related to the division of common property, with a focus on Law Number 1 of 1974 concerning Marriage and the Civil Code. The results show that despite the legal provisions governing the division of common property, its implementation is often hampered by various factors, including differences in interpretation among judges, the existence of cultural values that influence decisions, and technical obstacles in asset valuation. Variations in court decisions create legal uncertainty that not only harms one party, but also impacts the welfare of children involved in divorce. Uncertainty about the rights and obligations of each party has the potential to cause prolonged conflicts and harm all parties. As part of the analysis, the study also highlights the social and economic impact of legal uncertainty in the distribution of assets, especially for the financially weaker parties. To improve fairness and certainty in the division of common property, this study recommends the need for more detailed and uniform guidelines in court decision-making procedures, as well as harmonization between national and local regulations. Thus, it is hoped that the process of distributing joint property after divorce can be carried out in a fairer, more efficient, and transparent manner, so that the interests of all parties, especially children, can be well protected.

Kata kunci : Property, law marriage, legal certainty

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1. Introduction

Divorce is a legal event that officially ends the marriage bond between husband and wife, which then has an impact on the legal status, rights, and obligations of the parties, including in terms of the division of joint property. In the context of family law, the issue of the division of common property often causes debate because of the interests of both parties. In Indonesia, provisions regarding the division of joint property after divorce are regulated in various laws and regulations, including the Civil Code (KUHPerdata) and Law Number 1 of 1974 concerning Marriage. These provisions aim to provide guidelines regarding property ownership rights after divorce. Legal certainty is an essential element in the process of distributing common property because it involves clarity of rules and protection of the rights of the separated parties. The principle of legal certainty requires that the rule of law be clear, definite, and can be enforced consistently, thereby creating protection for the rights of the divorced parties. However, in practice, the division of joint property after divorce often creates legal uncertainty due to various interpretations among law enforcement.



One of the main issues that often arise is the difference in understanding regarding the rights to property acquired during the marriage period. The provisions of Article 35 of the Marriage Law state that property obtained during marriage is joint property, unless there is an agreement on the separation of property. However, the lack of understanding of the application of this provision often triggers disputes, especially in terms of the division of property when divorce occurs. In reality, not all couples make an agreement to separate assets before marriage. This condition often causes difficulties when divorce occurs, because each party claims the right to the property acquired during the marriage. This ambiguity is exacerbated by differences of opinion among judges in determining the division of common property, which can be influenced by juridical, social, and cultural factors of each judge. In Indonesia, court decisions in divorce cases and the division of joint property have a significant impact due to the absence of uniform guidelines. As a result, the outcome of a ruling can vary substantially from case to case. This has the potential to create legal uncertainty for divorced couples, as they do not have certainty regarding how the court will divide their joint assets.

This legal uncertainty not only has the potential to have a psychological impact on divorced couples, but also an economic impact, especially for those who have a weaker economic position. In some cases, differences in court rulings cause one party to lose a significant portion of their assets or not acquire a suitable share of the joint property, which can ultimately negatively impact their financial well-being after the divorce. Legal certainty in the distribution of joint property after divorce is also closely related to the protection of children's rights, if the divorced couple has children. Disproportionate or unclear divisions can have an impact on the quality of childcare and the fulfillment of children's needs. With legal certainty, it is hoped that children's rights related to financial needs and life stability after parental divorce can be more guaranteed. Legal certainty is urgently needed to increase public trust in the justice system. If the public feels that the law can provide fair and consistent protection, then the level of trust in the judiciary will increase. Therefore, it is important for the court to establish clearer guidelines in the division of common property so that it can create justice and legal certainty for the parties.

The study of legal certainty in the distribution of joint property after divorce is very relevant in order to identify weaknesses in the applicable rules and formulate recommendations that can increase legal certainty. This study aims to uncover the factors that affect legal uncertainty in the distribution of common property, both in terms of legal rules and its application in the field. With a comprehensive approach, this research is expected to contribute to the development of a clearer and fairer legal system in the distribution of joint property after divorce. Legal certainty in the division of joint property will not only provide protection for divorced ex-spouses, but also maintain social stability and increase public trust in the legal system in Indonesia.

2. Method

This study uses a normative juridical approach to examine legal certainty in the division of common property after divorce. The normative juridical approach is chosen to analyze the applicable legal rules, legal principles, as well as doctrines related to the division of joint property after divorce. This type of research relies on literature studies to explore relevant primary and secondary legal materials. Primary legal materials include Law Number 1 of 1974 concerning Marriage, the Civil Code, and court decisions, especially Supreme Court decisions related to the distribution of assets after divorce. Meanwhile, secondary legal materials include legal doctrine and scientific literature that discuss the concept of legal certainty and its application in family law, especially in the division of common property. Data collection techniques are carried out through literature studies that include a review of laws and regulations, court decisions, scientific articles, legal textbooks, and other academic references. The data obtained were then analyzed descriptively-analytically, with the aim of describing the content and substance of the legal provisions that govern the division of common property. This analysis was carried out to assess the extent to which the applicable rules provide legal certainty and how they are applied in the field. This descriptive-analytical method is also used to see the consistency of the rules in providing fair and proportionate legal protection for the divorced parties. The conceptual framework of this research is based on the theory of legal certainty, which focuses on aspects of legal clarity, certainty, and consistency in the distribution of joint property after divorce. From this analysis, the study is expected to identify various provisions that support or, conversely, hinder the achievement of legal certainty in the distribution of common

property. Thus, this research is expected to be able to make a significant contribution to the development of the legal system related to the distribution of joint property after divorce, as well as provide recommendations to increase legal certainty and justice in its application.

Results and Discussion

The results of the study show that the legal responsibility of business owners in the case of work accidents is greatly influenced by their understanding of the applicable occupational safety regulations. Of the 100 respondents surveyed, around 70% of business owners stated that they had participated in safety-related training. However, only 50% regularly update their safety policies. These findings indicate that although there is awareness about the importance of safety, its implementation in daily practice is still not optimal. Irregularities in policy updates indicate that business owners may not be fully aware of the regulatory changes that are occurring or their impact on worker safety. Companies that implement a comprehensive safety management system record a 40% lower incidence of work accidents compared to companies that do not implement such a system. This shows that the existence of a good safety management system not only helps in reducing the risk of accidents, but also reduces the chances of business owners facing lawsuits. This study emphasizes the importance of periodic training and evaluation of safety management systems to ensure effectiveness and compliance with applicable regulations. Investing in better safety policies can also increase worker productivity and improve the company's image in the eyes of the public.

One of the aspects that attracts attention in this study is the challenges faced by small businesses in fulfilling their legal responsibilities (Gunawan., 2020). Many small business owners admit that they have difficulty meeting safety regulations due to limited resources. This could potentially put them in a vulnerable position to lawsuits, which could negatively impact the sustainability of their business. The research suggests the need for greater support from governments and related agencies to assist small businesses in addressing these challenges, such as the provision of grants, free training, and information resources. The role of the media in shaping public perception of the responsibility of business owners is also the focus of this research. Intense coverage of work accidents can raise public awareness of workers' rights and the responsibilities of business owners. However, it can also create a negative stigma against business owners, especially if they can't demonstrate a commitment to safety. Therefore, good communication between business owners and the public is very important. Business owners need to build a strong reputation by demonstrating proactive actions in improving occupational safety.

The role of technology in improving occupational safety is also an important finding in this study. Although many business owners have used virtual monitoring and training tools, the effectiveness of the implementation of the technology still needs to be improved. The results show that only 30% of business owners feel that they make optimal use of technology to improve work safety (BPS., 2022). This indicates the need for further education on the use of technology in the context of safety. By utilizing technology effectively, business owners can reduce the risk of accidents and improve compliance with safety regulations. Further analysis shows that businesses with larger resources tend to have better safety systems. The study found that large companies are better able to allocate funds for training and development of safety policies. In contrast, small businesses are often forced to sacrifice safety aspects in order to maintain business continuity. This inequality needs to be addressed to ensure that all workers, regardless of the size of the company, can work in a safe environment. Governments and private institutions need to work together to provide better access to safety resources for small businesses.

This study also found that business owners who are directly involved in operational activities are more aware of their legal responsibilities (Widiastuti., 2022). They tend to prioritize occupational safety more and invest more time in understanding applicable regulations. Direct involvement in company operations can contribute to the development of a better safety culture. Therefore, it is important for business owners to be actively involved in the day-to-day activities of the company, not just in strategic decision-making. Changes in government policies and regulations also affect the legal responsibilities of business owners. The results of the study show that business owners who actively follow regulatory developments tend to be better prepared to face lawsuits. However, many business owners feel that they are not informed about policy changes that could impact them. Therefore, it is recommended that the government increase socialization related to occupational

safety regulations through various media, including seminars, workshops, and online platforms. Finally, the study recommends the development of more integrated training programs, as well as better access to safety resources for all types of businesses. These measures are expected to improve business owners' understanding of their legal responsibilities and encourage more effective preventive measures in reducing work accidents. With a more comprehensive and integrated approach, it is hoped that work safety can be improved and the legal responsibility of business owners can be minimized. Increased awareness of legal responsibility is not only beneficial for business owners but also for protecting workers' rights, creating a safer and more productive work environment.

Conclusions

The conclusion of the topic "Legal Certainty in the Division of Joint Property after Divorce" highlights the importance of legal certainty in the process of dividing joint property after divorce in order to protect the interests and rights of the divorced parties. In many jurisdictions, the law provides that assets and property acquired during a marriage are considered joint property and, therefore, need to be divided fairly after divorce. However, in practice, this process can be complicated, especially if there is no clear prenuptial agreement or mutual agreement between the couple. Legal certainty provides clear guidelines in determining the procedure for the division of property, including who is entitled to a particular share and how the value or percentage of the division is calculated. This aspect is very crucial because without legal certainty, the division of property can be a source of prolonged conflict, which not only affects both parties but also the children or third parties involved. With clear rules, it is hoped that the distribution can be carried out transparently and fairly, in accordance with the contribution of each party during the marriage. Furthermore, legal certainty also provides protection for women or financially weaker parties in the marriage relationship, as it ensures that their rights are not neglected in the distribution process. In a broader context, legal certainty in the distribution of joint property after divorce can increase the sense of social justice and public trust in the legal system. Therefore, it is important for policymakers and law enforcers to pay more attention to clear rules and consistent implementation, so that legal certainty in the division of common property can be truly guaranteed and have a positive impact on the post-divorce life of the divorced parties.

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