

ABSTRAK

Putusan Pengadilan Agama Nomor 0113/Pdt.G/2016/PA.Btl memutus perkara perdata antara Astuti Puji Ningrum (Penggugat) terhadap suaminya Asep Bachtiar (Tergugat) mengenai pembagian harta bersama dalam perkawinan. Putusan tersebut memberikan hak kepada suami atas hasil usaha istri yang diperoleh dari bantuan ibu kandung dan saudara-saudara Penggugat, Tergugat juga lalai dalam melaksanakan kewajibannya untuk menafkahi istri dan keluarganya. Putusan Hakim tersebut menimbulkan isu hukum mengenai kesesuaiannya dengan Hukum Islam perihal pemilikan harta kekayaan perkawinan. Metode Penelitian yang digunakan adalah penelitian hukum normatif dengan menggunakan pendekatan undang-undang (*statute approach*) yang berfokus pada studi kasus (*case study*). Hasil penelitian menunjukkan bahwa pertimbangan Pengadilan Agama yang memberikan hak kepada suami atas hasil usaha istri dan memberikan $\frac{1}{2}$ (setengah) bagian harta kepada suami atas hasil usaha istri kurang tepat, hal tersebut dikarenakan Hukum Islam menganut asas kepemilikan harta secara terpisah berdasarkan ketentuan *Al-Qur'an* Surat *An-Nisa'* ayat 32 dan Pasal 86 ayat (1) Kompilasi Hukum Islam. Tergugat juga lalai dalam memberikan nafkah kepada Penggugat sebagaimana kewajiban suami dalam Pasal 34 ayat (1) Undang-Undang Perkawinan, Pasal 80 ayat (4) Kompilasi Hukum Islam dan *Al-Qur'an* Surat *Al-Baqarah* ayat 233 atas kelalaian tersebut suami dikategorikan *nusyuz*. Oleh karena itu, Hakim hendaknya tidak sekedar menyimpulkan seluruh harta yang diperoleh dalam perkawinan termasuk harta bersama, akan tetapi perlu juga melihat asal mula perolehan harta dan pemenuhan kewajiban suami istri dalam perkawinan.

Kata Kunci : Putusan, Harta Bersama, Nusyuz, Nafkah, Hukum Islam.

ABSTRACT

Decision of Religious Court Number 0113/Pdt.G/2016/PA.Btl decides civil case between Astuti Puji Ningrum (Plaintiff) against her husband Asep Bachtiar (Defendant) regarding the distribution of joint property in marriage. The ruling grants the husband the right of the wife's proceeds obtained from the assistance of the plaintiff's mother and relatives, the Defendant also neglects to perform his duty to provide for his wife and family. The existence of the judge's decision raises legal issues regarding its conformity with Islamic law regarding the ownership of marriage property. Research Methods used a dalah normative legal research using statute approach which focuses on case study. The result of the research indicates that as per the Court of Religion giving the husband rights on the wife's business result and giving ½ (half) part of the property to the husband on the wife's result is less precise, it is because Islamic Law holds the principle of property ownership separately based on the provisions of Al-Qur'an Surah An-Nisa' verse 32 and Article 86 verse (1) Compilation of Islamic Law. The Defendant is also negligent in providing a living to the Plaintiff as the obligation of husband in Article 34 verse (1) of Marriage Law, Article 80 verse (4) Compilation of Islamic Law and Al-Qur'an letter of Al-Baqarah verse 233 on negligence husband is categorized nusyuz. Therefore, the Judge should not merely summarize all the property acquired in marriage including joint property, but it is also necessary to see the origin of the acquisition of property and the fulfillment of marital obligations in marriage .

Keywords : **Verdict, Matrimonial Property, Nusyuz, Livelihood, Islamic Law.**