

ABSTRAK

Perkara hibah dan waris pada Putusan Nomor 310/Pdt.G/2023/PA.Kdi dan Putusan Nomor 201 K/Ag/2024 terdapat perkara hibah dalam putusan ini terkait adanya sengketa hibah yang digunakan sebagai pembagian waris. Hibah tersebut telah dianggap sah oleh Pengadilan Tingkat Pertama, namun dalam putusan kasasi hibah tersebut tidak dipertimbangkan. Penelitian ini bertujuan untuk menganalisis keabsahan hibah menurut Hukum Islam serta pertimbangan hakim dalam memutus perkara harta waris yang di dalamnya terdapat harta hibah.

Metode penelitian yang digunakan adalah normatif. Adapun pendekatan yang digunakan adalah pendekatan perundang-undangan (*statute approach*) dengan menggunakan studi kasus (*case study*), menggunakan teknik pengumpulan pustaka dan dokumen. Metode analisis yang digunakan yaitu secara preskriptif.

Hasil penelitian ini menunjukkan, bahwa hibah yang telah dilakukan Yunus semasa hidup telah memenuhi rukun dan syarat hibah menurut Hukum Islam serta telah terjadinya *qabadh* sehingga dinyatakan sah. Pembuktian melalui alat bukti saksi dalam Hukum Islam termasuk syahadah yaitu kesaksian yang mendengar, mengetahui peristiwa tersebut secara langsung, sehingga hibah tetap dinyatakan sah meskipun dilakukan secara lisan. Namun, dalam Putusan Kasasi MA tidak lagi mempertimbangkan hibah dan langsung mengualifikasikan keseluruhan harta menjadi objek waris yang dibagi secara *faraidh*.

Kata kunci : Hibah, waris, *Syahadah*, *Qabadh*

ABSTRAC

In the case of gifts and inheritance, Decision Number 310/Pdt.G/2023/PA.Kdi and Decision Number 201 K/Ag/2024, a gift case was involved in this decision, involving a dispute over a gift used for inheritance distribution. The gift was deemed valid by the Court of First Instance, but was not considered in the cassation decision. This study aims to analyze the validity of gifts under Islamic law and the judge's considerations in deciding inheritance cases involving gifts.

The research method used is normative. The approach used is a statutory approach (Statute Approach) using case studies, using literature and document collection techniques. The analytical method used is perspective.

The results of this study indicate that the gift Yunus made during his lifetime fulfilled the pillars and requirements of a gift according to Islamic law and that qabadh (contractual agreement) had occurred, thus being declared valid. Evidence through witness evidence in Islamic law includes shahadah, namely testimony from someone who heard or directly knew about the event, so the gift is still considered valid even if it was made verbally. However, this grant has weaknesses in proof because it is done orally and is not supported by a strong written deed, such as the absence of an authentic deed. However, in the Cassation Decision, the Supreme Court no longer considered gifts and immediately qualified the entire assets as objects of inheritance which were divided according to faraidh.

Keywords: Grant, inheritance, Shahadah, Qabadh