

PERLINDUNGAN HUKUM TERHADAP ASET BISNIS DALAM PEMBAGIAN HARTA GONO GINI AKIBAT PERCERAIAN

E. Putri Wulandari*

Dr. Tajuddin Noor, S.H., M.Hum, Sp.N**

Dr. Ahmad Rusly Purba, S.H., M.H***

ABSTRAK

Tingginya angka perceraian di Indonesia yang mencapai 394.608 kasus pada tahun 2024 menimbulkan permasalahan pembagian harta gono gini, khususnya aset bisnis tidak berbadan hukum seperti Firma, CV, dan UD yang memiliki karakteristik produktif dan dinamis berbeda dengan aset konvensional. Sistem hukum Indonesia belum memberikan pengaturan spesifik untuk aset bisnis dalam pembagian harta gono gini, menciptakan ketidakpastian hukum bagi pelaku usaha yang menghadapi perceraian.

Penelitian ini mengkaji tiga permasalahan yaitu pengaturan hukum terhadap aset bisnis dalam pembagian harta gono gini menurut hukum perdata Indonesia, mekanisme pembagian aset bisnis ketika terjadi perceraian, dan perlindungan hukum terhadap aset bisnis dalam pembagian harta gono gini.

Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan kasus.

Hasil penelitian menunjukkan bahwa UU Perkawinan, KUHPperdata, dan KUHD belum mengatur secara khusus kedudukan Firma, CV, dan UD sebagai objek harta gono gini sehingga terjadi kekosongan hukum. Mekanisme pembagian dilakukan melalui identifikasi aset, penilaian nilai usaha, dan penentuan cara pembagian berupa pengambilalihan dengan kompensasi, pembagian natura, atau likuidasi. Perlindungan hukum dapat dilakukan secara preventif melalui perjanjian perkawinan dan penyusunan akta pendirian yang rinci, serta secara represif melalui mediasi, penggunaan penilai profesional, dan sita jaminan selama proses perceraian.

Kata Kunci: Aset Bisnis, Harta Gono Gini, Perceraian, Perlindungan Hukum, Pembagian Harta Bersama

*Mahasiswa Program Magister Ilmu Hukum Universitas Islam Sumatera Utara

**Pembimbing I

***Pembimbing II

LEGAL PROTECTION OF BUSINESS ASSETS IN THE DIVISION OF MARITAL PROPERTY AS A RESULT OF DIVORCE

E. Putri Wulandari*
Dr. Tajuddin Noor, S.H., M.Hum, Sp.N**
Dr. Ahmad Rusly Purba, S.H., M.H***

ABSTRACT

The high divorce rate in Indonesia, which reached 394,608 cases in 2024, has led to problems in the division of marital property, particularly unincorporated business assets such as firms, CVs, and UD, which have productive and dynamic characteristics that differ from conventional assets. The Indonesian legal system has not provided specific regulations for business assets in the division of marital property, creating legal uncertainty for business actors facing divorce.

This study examines three issues, namely legal regulations on business assets in the division of marital property according to Indonesian civil law, the mechanism for dividing business assets in the event of divorce, and legal protection for business assets in the division of marital property. The research method used is normative legal research with a legislative approach and a case approach.

The results of the study show that the Marriage Law, Civil Code, and Commercial Code do not specifically regulate the position of firms, limited liability companies, and sole proprietorships as objects of joint property, resulting in a legal vacuum. The distribution mechanism is carried out through asset identification, business valuation, and determination of the method of distribution in the form of takeover with compensation, distribution in kind, or liquidation. Legal protection can be provided preventively through marriage agreements and the preparation of detailed deeds of establishment, as well as repressively through mediation, the use of professional appraisers, and seizure of collateral during the divorce process.

Keywords: *Business Assets, Joint Property, Divorce, Legal Protection, Division Of Joint Property*

**Master's Degree Student in Law, University of North Sumatra*

***Supervisor*

****Supervisor II*