

Pembatalan akta perjanjian kawin studi kasus penetapan Pengadilan Negeri Tangerang nomor 277 pdt p 2010 pn tng dan putusan mahkamah agung nomor 585 pdt 2012 = Analysis of determination of court case number Tangerang 277 pdt p 2010 pn tng and decisions of the supreme court of the Republic of Indonesia number 585 pdt 2012 cancellation of the prenuptial agreement

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Abstrak

Pada kenyataannya terdapat pembatalan perjanjian kawin yang dikabulkan oleh Hakim. Dikabulkannya pembatalan perjanjian kawin membawa akibat terciptanya kembali persatuan harta bulat di antara suami dan istri, kecuali harta bawaan masing-masing yang dibawa ke dalam perkawinan dan masing-masing pihak tetap bertanggung jawab atas hutang yang pernah ditimbulkannya kepada pihak ketiga atau kreditor. Pihak kreditor berhak untuk mengambil kekurangan pelunasan dari persatuan harta bulat.

Hingga kini belum terdapat kepastian hukum mengenai pembatalan perjanjian kawin, sehingga dikabulkan atau tidak dikabulkannya pembatalan perjanjian kawin setelah perkawinan berlangsung berdasarkan pertimbangan hakim.

Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan kualitatif. Pembatalan perjanjian kawin setelah perkawinan berlangsung dapat dilakukan dengan cara permohonan atau mengajukan gugatan kepada hakim dengan alasan-alasan tertentu yang nantinya akan dipertimbangkan terlebih dahulu oleh hakim.

In reality there is a cancellation of the prenuptial agreement which was granted by Judge. The granting of the cancellation of the prenuptial agreement bring back unity round assets in between husband and wife, except the inherent assets of each are brought into the marriage and each party remains liable for debts ever caused to third parties or creditors. The creditor is entitled to take shortfall repayment of unity round the property.

Until now there has been no legal certainty regarding the cancellation of the prenuptial agreement, so that the granting or refusal of cancellation of the prenuptial agreement after the marriage takes place based on the consideration of judges.

The method used is qualitative normative juridical approach. Cancellation of the prenuptial agreement after the marriage can be done by way of a petition or file a lawsuit to judge the specific reasons which will be considered first by the judge.