

Birth Certificate Standing in Proof of Inheritance in The District Court

Study of Decision No. 49/Pdt.G/2016/Pn.Skh

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ABSTRACT

Indonesia is a state of law that is just. Conflicts or disputes in the community are expected to be resolved through an institution called the Judicial Institution. This institution is expected to decide justly on a dispute. Justice, as expected by the community, can be realized if there is an authentic evidentiary process in the course of the trial. This evidence is crucial because it is a source where judges can obtain trial facts, which will later be utilized as considerations in deciding a dispute. In proof, a letter or written evidence has perfect power over other evidence. One of them is an authentic deed made by an authorized official. An authentic deed with the power of perfect proof cannot be contested unless someone denies it with equally strong evidence. In practice, it is implemented in the decision of the Sukoharjo District Court with Case Number 49/Pdt.G/2016/PN.Skh. The method used to obtain the research results was the normative juridical method using a statutory approach and a case approach, in which data are obtained from legislation and district court decisions. The results of this study indicated that the judge's decision on the dispute contained the considerations of the panel of judges, which stated that the birth certificate that was included in the authentic deed had perfect evidence so that it could deny the Plaintiffs' claim, which only had evidence in the form of written evidence made unilaterally. The judge also considered that the evidence submitted by the Defendants is a letter issued from an agency that has fulfilled the legality formalities.

Keywords: *Birth Certificate, Civil Procedure Law, Evidence, Inheritance, and Legal Considerations.*

1. INTRODUCTION

The Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia states the purpose of establishing the unitary state of Indonesia. One of the establishment's goals is to promote the general welfare based on principles of the Welfare State. Welfare State is viewed from a limited perspective and a broad perspective. [1] In a limited perspective, Welfare State can be interpreted as a government financial management intended for the household sector, including social funds, education, health, domestic consumption, and subsidies. A broad perspective means the Welfare State as a form of government policy on aspects of the public interest in regulating regulations. These regulations are for the community's welfare. Society demands the state to realize general welfare by encouraging the state to play an active role and participate in the social agenda.

The government (bureaucrats) as a public servant is needed as a form of support for services to

reinforce the community's welfare. The government has fundamental functions, including development, empowerment, and serving. The government has obligations and responsibilities as a public servant by performing the functions of the government as it should be as a representative of the people. The function of public services as guarantors of the community's fundamental rights cannot be separated from the central role of the government. The community continuously demands quality public services, even though the demands and what is being carried out are not as expected.

One of the public services that concerns a person's identity and citizenship and becomes self-identity after birth is a birth certificate. A birth certificate is the deed made by the appointed official who is given the authority to prove the validity of a person's birth [2]. Birth is a legal occurrence that triggers various legal consequences. Therefore, having a birth certificate is crucial. The birth will cause a pervasive legal relationship in a family.[3]

The deed has two functions: the formal function

(*formalitas causa*) and the evidence function (*probationis causa*).[4] *Formalitas causa* means that the deed functions as a complement or completes a legal act, so it is not legal. It is a formal requirement of legal action. *Probationis causa* means that the deed functions as evidence in the evidentiary process. It means that the original purpose of the deed is made to prove once a dispute occurs.

Article 1866 regulates the types of evidence. The evidence consists of written evidence, witnesses, allegations, confessions, and oaths. Written evidence is the primary evidence in civil procedural law. This written evidence can be in the form of an authentic deed, a private letter, or an ordinary letter. The three have different proving powers.[5]

The power of proof in an authentic deed makes this deed included in the perfect evidence category.[6] The proof power of birth authentic certificate implies that the proof power is based on the circumstances of birth, namely occurrences that appear outwardly. Formal proof of an authentic deed can provide certainty regarding the incident between the official and the parties stating and doing what is contained in the deed [7]. Further, it is also to provide confidence about the material of a deed. Hence, it can be proven from the power of the material evidence of the authentic deed.

Written evidence is implemented using a deed, including an authentic or private deed. Authentic deeds play an essential role in people's lives, especially verification process. Authentic deeds are also used to obtain legal certainty regarding a person's rights and obligations. The existence of an authentic deed can also prevent someone from a dispute.

One of the disputes discussed by the public in addition to the divorce case is the inheritance case. We still encounter many of these cases, including the Religious Courts, the District Courts, and the upper judicial level. Matters related to property or material become vulnerable and can even separate a family.

Decision 49/Pdt.G/2016/PN.SKH mentions *Judex Facti*, which means that the dispute between the Plaintiffs and the Defendants is regarding inheritance, proven by a Birth Certificate as written evidence. Thus, Decision Number 49/Pdt.G/2016/PN.SKH is generated, which rejected the Plaintiffs' claim.

Based on the previous description, this article aims to examine the birth certificates standing in trial evidence and to examine the considerations of the Panel of Judges in case Number 49/Pdt.G/2016/PN.SKH.

2. METHOD

This type of research was normative research. Peter Mahmud Marzuki argued normative legal research is a step to reveal legal rules, principles, and doctrines to overcome a problem. [8]

The approach method used was a normative juridical research method. The normative juridical research method is a method in which researchers conduct legal research by examining library materials and based on secondary data only.[9] This article was compiled by using the variables that can cause cases to occur to the completion of the case. Another approach used by the researchers was the statutory approach, using the Civil Code, the Population Administration Act, and Judge Jurisdiction as material to obtain a research result.

This research employed a literature study for data collection techniques. This technique collects information from written documents, including photos, pictures, and electronic documents related to research.

The data analysis method in this study was descriptive-analytical. Descriptive aims to describe decision number 49/Pdt.G/2016/PN.SKH in detail. This study used analytics because there was an analysis of various aspects related to the material being studied. Natsir stated that descriptive is used systematically, factually, and accurately concerning the facts or problems being studied. [10].

3. RESULTS AND DISCUSSION

3.1. Birth Certificate Standing in Proof in Court

Birth occurrences can be categorized as one of the legal events that must be registered with the government, later in a certificate, namely a birth certificate. Birth registration is a part of the Population Administration. Article 1 paragraph (1) of the Law of the Republic of Indonesia Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration states that population administration is an activity of controlling and structuring population administration, one of which is by civil registration.

Birth certificates are included in authentic deeds because they are issued by authorized officials and are determined by law. Article 1 point 8 of Law Number 23 of 2006 concerning Population Administration states explicitly that population documents are official documents issued by implementing agencies and can be used as evidence obtained through population registration and civil registration services.

Based on the article contained in the provisions above, it is concluded that a birth certificate is a deed made by a resident registration and civil registration service officer so that this birth certificate has legal force as evidence that can be used for the trial process. Evidence is an essential part of the trial process. The reason for this evidence is that the judge will provide legal considerations, which will later be contained in the decision. This judge's decision must have gone

through a council meeting, considered the existing legal facts, and been adapted to the legal rules that have been contained in the State Gazette.

Veegens-Oppenheim-Polak defined a deed as *een ondertekend geschrift opgemaakt om tot bewijs te dienen*, which means that a writing is signed and made to be evidence. [12] Another opinion, Pitlo, defined a deed as a letter made as evidence and signed to be used by someone to make the letter. Sudikno Mertokusumo interpreted that a deed is a letter that is used as evidence and signed in which there is an event that forms the basis of a matter or an assignation, which is intentionally made for the evidentiary process.

The legal facts contained in this trial must be proven by those who postulate this based on the provisions of Article 163 of the HIR. In fact, this is done to obtain the fairest judge's decision. The judge's decision can only be handed down if it has gone through the evidentiary process. To make a decision, it is necessary to prove that the event is true or not [13].

The following are the conditions for events that must be proven in court:

1. It is an event that contains a dispute
2. It is bound with space and time
3. There is a disputed right
4. It is a series of events from the disputed case
5. The event does not violate legal and immoral norms

Evidence is regulated in Article 1866 of the Civil Code. The article states that there are five pieces of evidence, including written evidence, witness evidence, suspicions, and oaths. Items as above have different levels of perfection. Article 1866 of the Civil Code has clearly regulated that the first order is written evidence; written evidence is the primary and most important evidence in the evidentiary process. Authentic Deed is one type of written evidence. The

Defendant 1 does not have the right to the inherited land, even though the lawsuit states that the heirs have no children. The evidentiary process based on accountability weakens the Plaintiffs' claim so that the lawsuit is rejected.

The legal considerations contained in the decision are "Considering the *aquo* decision that postulates the late Suprapti during her marriage with the late Hadi Wiyono alias Maryono did not have children as stated in the affidavits of evidence P-1 and P-2 as well as the statements of the witnesses from the Plaintiffs. The evidence of the plaintiffs had been denied by Defendants I, II, and V that Defendant I is the biological son of the late Suprapti and the late Hadi Wiyono alias Maryono as is the Duplicate of Birth Certificate from Singopuran Village and *Surat Kanal Kelahiran* from the Sukoharjo Regency Civil Registry Office".

Based on the lawsuit, which argues that by

legal dictionary states that an authentic deed is a deed that an authorized official makes, and the provisions for its manufacture have been regulated by law. According to predetermined provisions, another definition states that an authentic deed is made before an authorized official.[14]

Based on its nature, the proof power of an authentic deed is divided into two as follows:

1. The power of formal proof; it means that when both parties have clearly explained the official, in this case, the authorized official, which is contained in the deed in writing.
2. The power of material evidence, it means that a deed was made before an authorized official; both parties state that the incident actually occurred

A private deed is a deed that is in the process of being made without an authorized public official. It means that the deed has no intervention from any party, and only those with interest are in the deed. One of the categories of an authentic certificate is a birth certificate, so a birth certificate is an example of an authentic deed.

3.2. Analysis of the Panel of Judges' Considerations in the Decision Number 49/Pdt.G/2016/PN.SKH

The judge's purview is to investigate whether the legal relationship that is used as the basis for the lawsuit is true or not. [15] The judge's consideration is one of the essential components in realizing the value of justice (*ex aequo et bono*).

Decision number 49/Pdt.G/2016/PN.SKH. contains a legal consideration stating that

The legal considerations above state that the defendants submitted pieces of evidence. One of them is a duplicate birth certificate from Singopuran Village and a *surat kanal kelahiran* from the Sukoharjo Regency Civil Registry Office. The decision stated that the evidence submitted by the Defendants was in a unilateral statement, while the evidence submitted by the Defendants was evidence of a letter issued from an agency that had met the requirements for legality formalities as long as no evidence could prove otherwise.

Considering that evidence P-1 and P-2 are unilateral statements, evidence T-4 is a letter issued from an agency that, of course, has fulfilled the legality formalities as long as no evidence can prove otherwise. Thus, evidence P-1 and evidence P-2 and witness statements stating that the mentioned late had no children should be ruled out., leaving the heir who has no children or descendants,

the inheritance has the right to be inherited by the defendants who are descendants of the line to the heir's side. Therefore, this argument can be invalidated by the evidence presented by the Defendants. The duplicate expressly states that the heirs have children or descendants, namely Defendant I, who will prevent the right of inheritance from the heirs' siblings (the Defendants).

Based on the case study above, it can be clearly seen that the power of the Authentic Deed in the evidentiary process is perfect. Unlike a private deed, this deed can still be denied if one of the parties does not acknowledge it.

4. CONCLUSION

The evidence in court is an essential series in the

case settlement. Letter evidence is proof with perfect power. The deed is included in the proof of the letter because an authorized official made it.

In principle, birth certificates are included in authentic certificates because the birth certificate has been regulated in law, so the procedure for making it has been determined. Based on the judge's consideration in the District Court Decision Number 49/Pdt.G/2016/PN.SKH, the results showed that in the evidentiary process, the birth certificate has perfect evidentiary power so that it can prove that the heirs have children or descendants. Further, it is stated that the Plaintiffs' claims are rejected.

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