



LEGAL CONSEQUENCES: DISSOLUTION OF MARRIAGE DUE TO DIVORCE SUITS FROM DIFFERENT RELIGIONS (Study Decision Number: 55/Pdt.G/2022/PN.Tjk)

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Abstract

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Marriage is the behavior of creatures created by God Almighty so that life in the natural world can reproduce. Because humans are intelligent creatures, marriage is one of the orderly and sacred cultures that follows the development of human culture in the development of social life. Law Number 1 of 1974 concerning Marriage, namely regarding the maintenance of children, joint assets and maintenance/expenses for the wife and children. The responsibility of parents who have divorced for the support of minor children is that children who are not yet mumayyiz (12 years old) have the right to receive hadhanah from their mother, unless the mother dies, then her position is replaced by women in a straight line up from the mother. , women in a straight line upwards from the father, sister of the child in question. Implementation of the Divorce Process in the District Court Study Decision Number: 55/Pdt.G/2022/PN. Tjk is the same as the process is not much different from How to file a divorce suit by a Muslim couple. Non-Muslim couples are required to file a divorce suit at the district court, so that their divorce is valid in the eyes of the law of the nation and state. With supporting reasons for the divorce lawsuit, the divorce lawsuit will be granted by the court.

Abstrak

Kata Kunci:

Perlindungan Hukum ;
Konsekuensinya;
Gugatan Perceraian;
Pernikahan

Perkawinan merupakan tingkah laku makhluk yang diciptakan oleh Tuhan Yang Maha Esa agar kehidupan di alam dunia dapat berkembang biak. Oleh karena manusia merupakan makhluk yang berakal maka perkawinan merupakan salah satu budaya yang teratur dan sakral yang mengikuti perkembangan kebudayaan manusia dalam perkembangan kehidupan bermasyarakat. Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan yaitu mengenai pemeliharaan anak, harta bersama, dan pemeliharaan/biaya bagi istri dan anak. Kewajiban orang tua yang telah bercerai untuk menafkahi anak yang belum dewasa yaitu anak yang belum mumayyiz (12 tahun) berhak menerima hasanah dari ibunya kecuali jika ibu tersebut meninggal dunia maka kedudukannya digantikan oleh wanita dalam garis lurus ke atas dari ibu, wanita dalam garis lurus ke atas dari ayah, dan saudara perempuan dari anak yang bersangkutan. Pelaksanaan Proses Perceraian Dalam Kajian Putusan Pengadilan Negeri Nomor: 55/Pdt.G/2022/PN.Tjk sama saja prosesnya tidak jauh berbeda dengan Cara Menggugat Cerai Pasangan Suami Istri yang Beragama Islam. Pasangan non-Muslim diharuskan mengajukan gugatan cerai ke pengadilan negeri agar perceraian mereka sah di mata hukum negara dan bangsa. Dengan alasan-alasan yang mendukung gugatan

cerai tersebut, gugatan cerai tersebut akan dikabulkan oleh pengadilan.

A. Background

Marriage is the behavior of creatures created by God Almighty so that life in the natural world can reproduce. Because humans are intelligent creatures, marriage is one of the orderly and sacred cultures that follows the development of human culture in the development of social life. In simple societies the marriage culture is simple, narrow and closed, in advanced (modern) societies the marriage culture is advanced, broad and open.¹ Marriage culture and the rules that apply to a society or to a nation cannot be separated from the influence of the culture and environment in which the society is located and the social interactions of its people. This happens because there are moral and ethical factors in the life of a society or the culture of society which arise as a result of habits. It is influenced by knowledge, experience, beliefs and religion held by the community concerned. For example, Indonesian marriage rules are not only influenced by the cultural customs of the local community, but are also influenced by the teachings of Hinduism, Buddhism, Islam and Christianity. Even influenced by Western culture. This results in different fields for different grasshoppers, different depths for different fish, different communities for different marriage rules.²

In Article 1 of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage, it is stated that "Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a family (household) that is happy and eternal based on the Almighty Godhead. So, according to the law, marriage is a 'bond between a man and a woman', meaning marriage is the same as a 'bond (verbindtenis)'.³ Based on upper explanation, meaning marriage is the same as a 'bond (verbindtenis). So when there are differences in ethnicity, culture, norms, ethics and culture, even religion, the two streams are intertwined into one inseparable unity. In the sense that it does not violate the rules written in the law book.

The occurrence of a dispute is one that gives rise to a difference of opinion between the parties involved, apart from that, a dispute is a form of actualization of differences in interests between two or more parties. A situation where two or more parties are faced with differences in interests will not develop into a dispute if The party who feels aggrieved only harbors feelings of dissatisfaction or concern. A situation changes or develops into a dispute if the party who feels disadvantaged expresses his dissatisfaction or concern, directly or indirectly, to the party causing the loss or another party.

One of the principles in the National Marriage Law which is in line with religious teachings is to make it difficult for divorce to occur, because divorce means the failure of the purpose of marriage to form a happy, eternal and

¹Hilman Hadikusuma. 2007. Indonesian Marriage Law. Mandar Maju, Bandung, p.1.

²*Ibid*, p.2.

³*Ibid*, p.7.

prosperous family, due to human actions⁴. Another case is that a marriage breaks up because of death, which is the destiny of God Almighty that cannot be avoided by humans. It seems that in both the Civil Code and Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage, the dissolution of a marriage due to death is almost not regulated at all.

In the Civil Code (BW) for dissolution of marriage, the term dissolution of marriage (*ontbinding des huwelijks*) is used which is regulated in Chapter - 206b). concerning Marriage Divorce (Article 207-232a), and which is not recognized in customary law or Islamic religious law even though in reality it also occurs in chapter XI (eleven) concerning separating tables and beds (Article 233-249).

According to Article 199 of the Civil Code, a marriage is dissolved due to: firstly Death, secondly the absence of the husband and wife for 10 years which was accompanied by the new marriage of the wife and husband, thirdly the judge's decision after separating the table and bed, and the recording of a statement of dissolution of the marriage in the civil registry register, and fourthly because of divorce.⁵

Marriage according to the Protestant religion, the same as the Catholic religion, marriage according to the Protestant religion is doctrinally taken from two materials, namely the old testament and the second the new covenant. In the New Testament, a Christian's marriage is defined as a permanent and obedient bond of love that depicts, gives birth to and embodies Christ's love relationship with his church. Marriage according to the Protestant religion is based on God's command which makes one human being male and female. It is explained in the book of Genesis 218 verses (21) to (24) that no man is as good as a person, that I will make a man a helper who is equal to him.

The purpose of marriage according to Protestant Christianity is that through marriage a man and a woman can help each other, complement each other, perfect each other, in the love and grace of God. Marriage is destructive if the marriage is viewed from the perspective of sexual intercourse alone.⁶

In the divorce process, there are several conditions that must be fulfilled, such as administrative requirements, implementation procedures and mechanisms. Divorce is said to be legally valid when it is carried out through the courts, namely the Religious Court for Muslim couples and the District Court for non-Muslim couples. However, there are differences in the terms and conditions of divorce between Muslim and non-Muslim couples. In Article 114 KHI determines that the dissolution of a marriage due to divorce can occur due to divorce or based on a lawsuit for divorce. Article 115 KHI regulates that divorce can only be carried out in front of a Religious Court session after the Religious Court has tried and failed to reconcile the two parties.⁷

⁴ Mardalena Hanifah, *Perkawinan Beda Agama Ditinjau dari Undang-undang Nomor 1 Tahun 1974 Tentang Perkawinan*, *Soumatara Law Review*, Volume 2, Nomor 2, 2019, 297-308, DOI: <http://doi.org/10.22216/soumlaw.v2i2.4420>. p.300.

⁵*Ibid*, p. 149.

⁶Sirman Dahwal. 2017. *Comparison of Marriage Laws*, Mandar Maju, Bandung, p. 120.

⁷Ahmad Tholabi Kharlie. 2013. *Indonesian Family Law*, Sinar Graphics, Jakarta, p. 231.

Article 14 of Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law regulates that a husband who has entered into a marriage according to the Islamic religion, who wishes to divorce his wife, submits a letter to the court at his place of residence, containing notification that he intends to divorce his wife for the following reasons. the reasons and ask the court to hold a hearing for that purpose. Article 18 of Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law determines that divorce occurs from the time the divorce is declared before a court hearing.

Based on this, it can be understood that divorce must be carried out in front of a court session by stating the reasons for the divorce, what are the legal consequences of breaking up a marriage due to a divorce lawsuit, and how the divorce process carried out in the District Court ?. There are examples of cases of lawsuits against the law to cancel a marriage certificate (divorce) in the State Court as in the DecisionNumber: 55/Pdt.G/2022/PN.TjkThe Plaintiff and Defendant are husband and wife who got married on March 2, 2013, and it was recorded by the Marriage Registrar of the Bandar Lampung Civil Registry Office according to the Marriage Certificate Excerpt Number: 1871-KW-21042015-0001 dated April 21, 2015.

In the beginning, Plaintiff and Defendant's household was in harmony, but since March 2013, the peace between Plaintiff and Defendant's household began to shake, namely that between Plaintiff and Defendant there were frequent ongoing disputes and quarrels so that finally, since March 4, 2021, until now, Approximately 2 years 24 months, the Plaintiff and Defendant have separated from their residence/shared beds because the Plaintiff/Defendant has left their shared residence, in which case the Plaintiff currently resides in Camping Raya Suka Bumi Bandar Lampung and the Defendant resides in District Sukarama Bandar Lampung and during that time there was no longer any relationship. The existence of continuous disputes and quarrels has resulted in the Plaintiff and Defendant's household having no inner and outer happiness and no hope of ever building a household again.

B. Methods

The problem approach that will be used in this research is a normative juridical approach and an empirical approach. This normative juridical research carried out a literature study (Library Research) on matters of a theoretical nature, namely an approach carried out by studying legal principles in undergraduate theories/opinions and applicable laws and regulations. The empirical approach is an approach carried out by examining the law in reality or based on facts obtained objectively in the field in the form of opinions, attitudes and behavior of law enforcement officers which are based on legal identification and legal effectiveness.⁸

The types and origins of legal materials used in research consist of primary, secondary and tertiary legal materials. The collection of legal

⁸ Bambang Sunggono, (2016), Metodologi Penelitian Hukum, Jakarta, PT Raja, hlm. 32.

materials is carried out using methods of identifying and inventorying positive legal principles, examining library materials (books, scientific journals, research reports) and other sources of relevant legal materials according to the legal problem being studied. Legal materials are collected then classified, selected and ensured that they do not conflict with each other to facilitate analysis and construction.⁹

C. Research Results and Discussion

1. Legal Consequences of Marriage Dissolution Due to a Divorce Lawsuit (Decision Study Number: 55/Pdt.G/2022/PN.Tjk).

Based on the results of the author's interview with MrRakhmad Fajeri, as Judge at the Tanjungkarang District Court class 1 A, explained that the Plaintiff and Defendant were husband and wife who got married on March 2 2013, and it was recorded by the Marriage Registrar of the Bandar Lampung Civil Registry Office according to the Marriage Certificate Excerpt Number: 1871-KW -21042015-0001 dated 21 April 2015, after the marriage the Plaintiff and the Defendant resided on Jl. Tegal Island Gg. Apple 1 No.1 Ex. Waydadi District. Sukarama Bandar Lampung then moved to Kec. Sukarama Bandar Lampung for 7 years 84 months and during these 2 marriages Plaintiff and Defendant have gotten along well as husband and wife and have three children.

At first the Plaintiff and Defendant's household was in harmony, but since March 2013, the peace between the Plaintiff and Defendant's household began to shake, namely that between the Plaintiff and the Defendant there were frequent disputes and quarrels, the causes of which were, among other things. The disputes and quarrels continued continuously until finally since March 4, 2021 until now, for approximately 2 years 24 months, the Plaintiff and Defendant have separated from their residence/shared beds because the Plaintiff/Defendant has left their shared residence, where the Plaintiff currently resides in Campang Raya Suka. Bumi Bandar Lampung and the Defendant resides in Kec. Sukarama Bandar Lampung and during that time there was no longer any relationship.

Due to the continuous disputes and quarrels resulting in the Plaintiff and Defendant's household having no inner and outer happiness and no hope of re-building a household, the family has tried to reconcile the Plaintiff and Defendant but was unsuccessful, so on March 27 2023 to Tanjung Karang District Court and has been registered with Register Number/Pdt.G/2023/PN Tjk.

The panel of judges has also considered pexplanation of Article 39 of Law Number 16 of 2019 concerning Marriage that the reasons that can be used as a basis for divorce are:

- a. One of the parties commits adultery or becomes a drunkard, cheater, gambler, etc.

⁹ Bambang Waluyo, 2008, Penelitian Hukum Dalam Praktek, Sinar Grafika, Jakarta, hlm. 17

- b. One party leaves the other for 2 (two) consecutive years without the permission of the other party and without any valid reason or because there are other things beyond his or her ability.
- c. One of the parties receives a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place.
- d. One of the parties commits serious cruelty or abuse that endangers the other party.
- e. One of the parties has a physical disability or illness which results in him being unable to carry out his obligations as husband/wife.
- f. Between husband and wife there are constant disputes and quarrels and there is no hope of ever living in harmony in the household again.

Apart from the consideration, the elements of Article 39 have been fulfilled. Law Number 16 of 2019 concerning Marriage, judges also consider the following matters:

- a. Based on evidence P-2 in the form of a Birth Certificate Excerpt Number 1871-LT-31052019-0007 dated May 31 2019, evidence P-3 in the form of a photocopy of Family Card Number 1871022009130013 dated May 20 2019, evidence P-5 in the form of a photocopy of Birth Certificate Excerpt Number 1871-LT -23062015- 152, dated 23 June 2015, and Exhibit P-6 in the form of a photocopy of Birth Certificate Excerpt Number 1871-LT-31052016-0178, dated 1 June 2016, proving that the marriage between the Plaintiff and the Defendant was blessed with 3 (three) children, namely, first Child 1 (girl) was born on February 2014, then second Child 2 (boy) was born on 7 October 2015 and third Child 3 (boy) was born on 9 November 2018, then based on the statements of Witness 1 and Witness 2 in essence, it explains that the Plaintiff and Defendant have 3 (three) children from this marriage, namely Child 1, Child 2 and Child 3;
- b. Based on the testimony of the witnesses above, it is proven that there has been a continuous dispute between the Plaintiff and the Defendant which resulted in their residence being separated for approximately 2 (two) years. This is also confirmed by the Defendant's absence from participating in the follow-up trial process after the mediation process was carried out even though the Defendant has been legally and properly summoned, it is proven that the Defendant has waived his right to defend his interests, so that the Defendant has indirectly acknowledged all the arguments in the lawsuit submitted by the Plaintiff, thus the Panel of Judges is of the opinion that regarding the Plaintiff's argument that the marriage between the Plaintiff and the Defendant is no longer valid can be maintained again, because there are continuous disputes as stated in Article 19 letter f of Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage which has been proven.

Based on the description above, the rights have been decided by the Panel of Judges with the following verdict:

- a. Grant the Plaintiff's lawsuit in its entirety;
- b. Declare the marriage of the Plaintiff and Defendant as stated in Marriage Deed No. 1871-KW- 21042015-0001 issued by the Bandar Lampung City Civil Registry Office breaking up due to divorce with all the legal consequences;
- c. Order the Plaintiff to send a copy of this decision which has permanent legal force to the Bandar Lampung City Population and Civil Registration Service Office, to be recorded in the Divorce Deed Register;
- d. Sentence the Defendant to pay court costs in the amount of Rp. 465,000.00 (four hundred and sixty-five thousand rupiah);

More sirRakhmad Fajeri, explained that because the Panel of Judges had granted the Plaintiff's petition for divorce, in the state the Plaintiff and the Defendant were no longer husband and wife and had no legal relationship. Even though the husband and wife had entered into a sacred agreement, it did not rule out the possibility that the husband and wife would experience disputes that cause divorce in a household. The relationship between husband and wife is terminated if the marital relationship breaks down. If you look closely at Article 38 of Law Number 1 of 1974 concerning Marriage, it is clear that a marriage can be dissolved due to death, divorce and a court decision. Divorce is one form of reason for the dissolution of a marriage (Article 38 Paragraph (1) of the Marriage Law). Divorce of course also gives rise to certain consequences, namely property, child custody (hadhanah) and marital status.

Then, based on Article 39 of the Marriage Law, divorce can only be carried out before a court hearing after the relevant court tried and failed to reconcile the two parties. To carry out a divorce, you also have to have sufficient reasons that there is no longer any compatibility and similarity of goals in building a household, meaning that you can no longer live in harmony as husband and wife.

In the event that a marriage has been dissolved due to divorce, this does not result in the relationship between the parents (husband and wife who have divorced) and the children born from the marriage also breaking down. Because it has been firmly regulated that husbands and wives who have divorced still have obligations as parents, namely to care for and educate their children, including in terms of financing arising from the care and education of the children. Only custody is transferred to one party, namely to the father or mother.

Based on the description above, it can be analyzed that as a result of the law of divorce, the responsibility of divorced parents for the maintenance of minor children means that children who are not yet mumayyiz (12 years old) are entitled to receive hadhanah from their mother, unless the mother dies, then their position is replaced by women in a straight line up from the mother, father, women in a straight line up from the father,

sisters of the child concerned, women who are blood relatives along the side line from the mother., then for children who are mumayyiz (aged 12 years) has the right to choose to receive hadhanah from his father or mother, then if the hadhanah holder turns out to be unable to guarantee the physical and spiritual safety of the child, even though the costs of living and hadhanah have been sufficient, then at the request of the relative concerned, the court can transfer the child's rights to the relative others who also have the right to hadhanah and all the costs of the child's hadhanah and support are borne by the father according to his ability, at least until the child is an adult and can take care of himself (21 years). If there is a dispute regarding the child's hadhanah and child support, the Religious Court makes its decision based on the father's ability to determine the amount of costs for the maintenance and education of children who do not follow him.

Legal Consequences of Marriage Dissolution Due to a Divorce Lawsuit (Decision Study Number: 55/Pdt.G/2022/PN.Tjk). are as follows:

a. Towards Children

According to the Marriage Law, even though a divorce has occurred, it does not mean that the husband and wife's obligations as father and mother towards minor children have ended. A husband who divorces his wife is obliged to pay maintenance for their children, namely expenses for their children's upkeep and educational needs, in accordance with the husband's position. The obligation to provide for children must continue to be carried out until the children are mature and intelligent and have their own income. Both ex-husbands and ex-wives are still obliged to care for and educate their children based on the children's interests. Husband and wife are jointly responsible for all costs for the maintenance and education of their children. If the husband is unable, the court can determine that the mother bears the costs of the children.

As explained in Article 45 of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage that:

- (1) Both parents are obliged to care for and educate their children as best as possible;
- (2) The parental obligations referred to in Paragraph (1) of this article apply until the child marries or is able to stand on his own, which obligations continue to apply even if the marriage between the parents breaks down.

b. Regarding Joint Assets

Article 1 point f of the Compilation of Islamic Law explains that what is meant by assets in marriage or syirkah are assets acquired either individually or jointly by husband and wife during the marriage bond and are hereinafter referred to as joint assets, regardless of whether they

are registered in anyone's name.¹⁰ The inherited or original assets of the husband or wife remain in the hands of their respective parties. If the ex-husband or ex-wife does not carry out the above, then they can be sued through the district court at the defendant's residence, so that this can be implemented. Regarding the settlement of joint property due to divorce, husband and wife who are Muslim according to Islamic Law, while for non-Islamic husband and wife according to Civil Law.

c. Against Livelihood

According to general opinion, up to now, the costs of a wife whose husband has divorced her are no longer borne by her husband, especially in a divorce where the wife is at fault.¹¹ However, if the wife is innocent, the highest she can get regarding her living expenses is living expenses while she is still in the iddah period which is approximately 90 (ninety) days. But after the iddah period, the husband no longer needs to pay for his ex-wife any more. Even after the iddah period, the former wife must leave her husband's house if she is still living in the house provided by her husband. So, whether a woman is still in her iddah period or her iddah period has expired, as long as in a divorce she is not the party at fault, she is entitled to receive living expenses.

This provision can be made peacefully with the consent of the ex-husband as well as regarding the amount of his living expenses or it can also be made through a peace decision if the former husband does not voluntarily provide himself to provide these living expenses.¹² The provisions for possible financing after divorce in the Marriage Law are regulated in Article 41 letter C, which reads "The court can oblige the ex-husband to provide living expenses and/or determine obligations for the ex-wife".

Legal Consequences of Dissolution of Marriage Due to Divorce Lawsuit Decision Study Number: 55/Pdt.G/2022/PN.Tjk based on Article 45 of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage that Both parents are obliged to care for and educate their children as well as possible and the parental obligations referred to in Paragraph (1), this article apply until the child marries or is able to stand alone, which obligations continue even if the marriage between the parents breaks down. In relation to 3 matters (custody rights, joint assets and maintenance, in Decision Number:

¹⁰ Dwi Anindya Harimurti, "Perbandingan Pembagian Harta Bersama Menurut Hukum Positif Dan Hukum Islam," *Jurnal Gagasan Hukum* 3, no. 02 (December 29, 2021): 149–71, <https://doi.org/10.31849/jgh.v3i02.8908>. p.159.

¹¹ Ummu Kalsum, Pertimbangan Hakim Terhadap Nafkah Istri Dalam Kasus Cerai Talak Di Pengadilan Agama Watampone Kelas 1 A, *Jurnal Jurisprudentie* 6, No. 1 (Desember 2019) : 248-264, <https://core.ac.uk/download/pdf/276535062.pdf> p.255.

¹² Barzah Latupono, Kajian Yuridis Tentang Kewajiban Mantan Suami Menafkahi Mantan Istrinya Pasca Perceraian, *Bacarita Law Journal* 1 No. 2, (April 2021): 62-69, <https://ojs3.unpatti.ac.id/index.php/bacarita/article/view/3613/2828>. p.67.

55/Pdt.G/2022/PN.Tjk the judge gave a decision on child custody and maintenance only, while for joint assets the judge did not decide because there was no request regarding joint assets, this is because in this case the judge is passive.

2. Implementation of the Divorce Process in the District Court (Study Decision Number: 55/Pdt.G/2022/PN.Tjk)

Based on the results of the author's interview with Mr Rakhmad Fajeri¹³, as Judge at the Tanjungkarang District Court class 1 A, explained that One type of case decided by district courts is divorce for non-Muslim couples. So, unlike Muslim couples who decide their divorce case in a religious court, couples who have other religions, such as Christians or Hindus, are required to file their divorce lawsuit in the district court. The process of filing for a non-Muslim divorce is different from that for a non-Muslim divorce if the defendant is in the country. or abroad, of course the following requirements and equipment must be met by the plaintiff who is carrying out the divorce lawsuit process:

a. Looking for Information Regarding Filing a Divorce Lawsuit

Not much different from the way to process or file a divorce suit for Muslim couples, the way to file a divorce for non-Muslims is also best started by looking for information. Look for important information regarding the divorce process, for example what documents are needed, how long it will take, and to which district court the lawsuit must be filed. Information regarding these important matters can be obtained directly by visiting the nearest district court near you. If you don't have the opportunity to come in person, you can contact a lawyer who is ready to help you with this information.

b. Complete the Important Documents Required

Completing the documents is a very important thing to do in the process of applying for a non-Muslim divorce. After obtaining various important information regarding filing for divorce, especially the required documents, prepare the important documents needed as soon as possible. In general, the documents that are mandatory are a Family Card (KK), Resident Identity Card (KTP), and a marriage certificate and marriage certificate from a place of worship. If a request for custody is also submitted, the child's birth certificate must also be attached. Especially for those with Civil Servant (PNS) status, you will need a divorce permit from your superior, whether from the plaintiff or the defendant.

Especially for divorce lawsuits that are filed simultaneously with joint property lawsuits, there are other additional documents that must be attached. These documents include land certificates, STNK, BPKB, or sale and purchase receipts. Photocopies will be required of all the documents mentioned, and some will also be required to be legalized first and affixed with a seal.

¹³ Wawancara dengan Mr Rakhmad Fajeri.

c. Preparing Witnesses for Trial Needs

Apart from documents, an important aspect that must be prepared as part of the series on how to apply for a non-Muslim divorce is the presence of witnesses. The presence of this witness is very important, because with his testimony regarding the household conditions of the plaintiff and defendant, he will be able to strengthen the reasons for both parties to divorce. At least, provide 2 witnesses to expedite the process of filing for divorce. These witnesses could come from family, friends or neighbors. The most important thing in selecting a witness is that he must know exactly what the household conditions of the plaintiff and defendant are. If the witness has evidence, for example in the form of a photo related to this divorce case, it could be used as evidence.

d. Appoint a Legal Representative or Attorney

Filing for divorce can indeed be done independently by filing a lawsuit, but some people are confused and unfamiliar with the procedures for divorce and filing a lawsuit. This may be resolved if you appoint a legal representative or lawyer to do it. Of course, if you choose to use the services of a lawyer, there are additional costs involved. But the good thing is, you won't be bothered by many things related to this divorce lawsuit.

e. Making a Divorce Lawsuit

When you go to the district court to register a divorce suit, at that time the plaintiff will make or draft a divorce suit. Before making this divorce decree, you as the plaintiff must know exactly what the important points are in the divorce suit.

Apart from the identities of the plaintiff and defendant, the reasons behind the divorce suit must be stated clearly. It doesn't matter if you write down the reasons for the divorce lawsuit in detail, because that will strengthen the lawsuit, so that later the court judge can grant it. You can choose to make the divorce suit yourself. However, there won't be a problem if you appoint a legal representative or lawyer to make it on your behalf using a more economical drafting service. If the plaintiff has special conditions, such as being unable to read and write or is blind, then the contents of the lawsuit can be conveyed directly orally.

f. Preparing Costs for the Divorce Process

It doesn't stop at just writing the divorce petition, next you have to prepare and pay the costs for the divorce process that will be carried out. This fee will be paid in advance and is referred to as a case retainer fee. Please note that the nominal cost of divorce may vary, depending on the divorce process that will be undertaken later. The down payment fees for this case generally consist of case registration fees, stamp purchase, administration, editorial and summons fees. Summons fees refer to fees that are based on the distance between where the plaintiff and defendant live and where the district court is located. For the plaintiff, the cost of this summons is 2 times and 3 times for the defendant. The costs for this case will be determined after the case is finally decided, meaning it will

only be known at the end of the trial. It could be that the nominal costs for this case are smaller than the down payment costs for the case. If this happens, the fees paid in advance will be returned to the party concerned

g. Waiting for a Summons Letter from the District Court

After the case down payment is paid, the case number will be issued by the court. After the case number is issued, you only need to wait for the summons to arrive from the district court to carry out the trial. This summons will generally be sent no later than 3 days before the divorce trial is held. This summons will be sent directly to the addresses of each party involved, namely the plaintiff and the defendant. If the plaintiff and defendant are not present when the summons is sent, generally the letter will be entrusted to the sub-district head at their place of residence.

Rakhmad Fajeri, explained that after the Parties arrived then Judicial Aspect The judicial aspect is carried out at the determination or trial stage, which includes examination and legal actions from the day of the first trial until the judge's decision. In simple terms, the judicial aspect in civil procedural law includes the following stages: First Trial The trial begins after the Judge opens the trial by stating "the trial is open to the public" by tapping the gavel, the Judge begins by asking questions to the Plaintiff and Defendant. The nature of this first hearing is to check the identities of the parties to see whether the parties understand why they have been summoned to attend the hearing. As regulated in Article 130 paragraph (1) HIR Jo. Article 7 paragraph (1) PERMA Number 1 of 2008 concerning Mediation Procedures in Court. If an amicable agreement cannot be reached, the lawsuit will begin with the reading of the lawsuit.

Answer Stage Answer If the settlement is not successful then the defendant files an answer to the plaintiff's lawsuit. The Defendant's answer can take the form of rejecting the lawsuit, justifying the lawsuit and justifying the Defendant himself which must be supported by strong reasons, meaning based on events and legal relationships. Usually the contents of the answer are divided into 3 (three), including the Exception, the Main Case and the Petition. Furthermore, the Plaintiff can submit a replica at the next hearing as the Plaintiff's response to the Defendant's answer. Then the defendant can submit a duplicate, namely a response to the plaintiff's duplicate.

Proof Stage Based on Article 163 HIR there is the principle "whoever postulates something must prove it". According to the HIR system, in civil procedural law, judges are bound by valid evidence, which is only mentioned in the law. The evidence mentioned in the law is as stipulated in Article 164 HIR jo. Article 284 Rbg jo. Article 1866 BW is written evidence, witness evidence, allegations, confessions and oaths.

Conclusion Stage The conclusion stage is the stage where the parties make conclusions from the results of the trial, the main content of the conclusions are matters that benefit the parties. Both the plaintiff and the defendant make conclusions which generally contain legal facts that support

their arguments and refute the opposing party's arguments, supported by evidence presented in the evidentiary process. This conclusion is not a requirement in proceedings, but has become a habit in judicial practice and HIR or RGB does not regulate it. If none of the parties will submit conclusions at the next trial, then the next trial enters the Judge's decision stage.

Things that must be taken into account at the decision stage include that the judge's decision is only valid and has legal force if it is pronounced in a trial open to the public as stipulated in Article 13 paragraph (1) of Law Number 49 of 2009, all court decisions must also contain reasons. and the basis for the decision, must also contain certain articles from the relevant statutory regulations or sources of unwritten law which are used as the basis for adjudicating as regulated in Article 50 paragraph (1) of Law Number 49 of 2009 concerning the second amendment to Law Number 2 of 1986 concerning General Courts. Decision Implementation Stage The decision implementation stage or what is usually called execution, which can be implemented if the judge's decision has definite, permanent legal force. Implementation can be carried out voluntarily, but often the defeated party does not want to carry it out, so assistance from the court is needed to carry it out by force.

Based on the descriptions above, it can be analyzed that the Implementation of the Divorce Process in the District Court, especially the Tanjungkarang District Court in Decision Number: 55/Pdt.G/2022/PN. The First Task Force is based on Supreme Court Regulation (PERMA) no. 1 of 2008 which requires a mediation process to be carried out before the main examination of a civil case. Both lawsuits are submitted to the District Court, then they will be numbered and registered in the Register book after the plaintiff has paid the down payment of the case fee, the amount of which is determined by the District Court based on Article 121 HIR, Third Stage of Answering. In the event that the settlement is not successful, the defendant submits an answer to the lawsuit. plaintiff as regulated in Article 133 HIR, Fourth Stage of Proof. Based on Article 163 HIR there is the principle "whoever postulates something must prove it". According to the HIR system, in civil procedural law, judges are bound by valid evidence, which is only mentioned in the law. The evidence mentioned in the law is as stipulated in Article 164 HIR jo. Article 284 Rbg jo. Article 1866 BW is written evidence, witness evidence, allegations, confessions and oaths.

Implementation of the Divorce Process in the District Court Study Decision Number: 55/Pdt.G/2022/PN.Tjk. carried out in 9 (nine) stages, the first is the filing of a lawsuit by the plaintiff, the second is the mediation process carried out by the parties which is required by the judge based on Perma Number 1 of 2016 concerning mediation, the third is the reading of the lawsuit by the plaintiff, the fourth is the response to the lawsuit submitted by the defendant, fifth is the Replication Process, namely the Plaintiff's response to the Defendant's Answer, sixth is the Duplicate Process, namely the Defendant's response to the Defendant's Replica,

seventh is the Evidence and Witness Examination Process carried out by the parties to strengthen their arguments, eighth is the Impulse Process which is a summary of the course of the trial. The parties and the final ninth is the judge's decision.

D. Conclusion

Based on the results of the research and discussion in the previous chapter, the following conclusions can be drawn:

1. Legal Consequences of Dissolution of Marriage Due to Divorce Lawsuit (Study Decision Number: 55/Pdt.G/2022/PN.Tjk) based on Law Number 1 of 1974 concerning Marriage, namely regarding the maintenance of children, joint assets and maintenance/expenses for the wife and children. The responsibility of parents who have divorced for the support of minor children is that children who are not yet mumayyiz (12 years old) have the right to receive hadhanah from their mother, unless the mother dies, then her position is replaced by women in a straight line up from the mother. , women in a straight line upwards from the father, sister of the child in question.
2. Implementation of the Divorce Process in the District Court Study Decision Number: 55/Pdt.G/2022/PN. Tjk is the same as the process is not much different from How to file a divorce suit by a Muslim couple. Non-Muslim couples are required to file a divorce suit at the district court, so that their divorce is valid in the eyes of the law of the nation and state. With supporting reasons for the divorce lawsuit, the divorce lawsuit will be granted by the court.

E. Suggestion

Based on the research results that the author has explained above, the author has several suggestions that can be used as input, namely:

1. Advice to people who have household problems is that it is better to resolve these problems in a family way, not to separate because they feel sorry for the child's growth and development which could be disrupted if the parents divorce.
2. Suggestions for law enforcers, especially the Panel of Judges, before conducting a divorce trial, should first seek peace as per the Circular Letter of the Supreme Court which requires that if a husband and wife wish to divorce, they must have been separated for 6 months in order to reduce the number of divorces that occur and also mediate between the parties so that they can give up their intention. to get a divorce.

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