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Juridical Review of The Court Judge's Decision on The Divorce Lawsuit Is Unacceptable: Case Decision Number. 393.Pdt.G/2024/Pn.Mdn

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ABSTRACT

This research aims to carry out an in-depth analysis of the basis of the Juridical Analysis of the Court Judge's Decision in Case Study No.393/Pdt.G/2024/PN Mdn In an Unacceptable Divorce Suit, it can be seen from the legal side in the field of civil procedural law. This description examines specific legal fields with legal aspects, which are the consequences of the law and juridical aspects of the basic legal considerations. Based on the decision of the Special Class I-A Medan Court Judge, divorce cannot be accepted, which contains absolute requirements for the steps for carrying out a divorce for a member of the Republic of Indonesia Police. The research method is related to a reasonably in-depth analysis of legal explanations and case studies. This research provides a comprehensive understanding of the legal process of divorce, especially regarding the judge's considerations and their impact on both parties involved.

Keywords: Divorce, Legal Considerations, Legal Consequences.

I. Introduction

Marriage is an inner bond that unites one man and one woman, authorized through a sacrament or legal process, in building a household. This bond is formalized through specific requirements and officiated by authorized officials, as stipulated in Article 1 of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage. Depending on the jurisdiction, these officials may include the head of a religious body or a civil registration officer (Indonesian Law Number 16 of 2019). However, the sanctity of marriage can sometimes lead to rifts that result in divorce. The phrase "the meaning of marriage towards divorce" describes the journey of a marriage that ultimately ends in separation. Divorce is not merely a personal decision but a legal process that carries profound implications for all parties involved, requiring preparation and the presentation of evidence in court Sarib, et al (2023).

The divorce process involves filing a Letter of Claim, where the plaintiff must provide sufficient legal evidence to substantiate their claims. The principle of Good or Bad Faith plays a crucial role in determining whether the lawsuit can be granted or deemed inadmissible. An inadmissible lawsuit implies that the legal and procedural requirements of the case have not been adequately fulfilled, as assessed by the court. For instance, Decision No. 393/Pdt.G/2024/PN Mdn highlights the legal consequences and judicial considerations in divorce cases where lawsuits are declared inadmissible due to procedural deficiencies or lack of substantial



evidence (Widodo, 2024). Divorce proceedings often involve complex issues such as property division, child custody, and alimony. Thus, understanding the rights and obligations of each party is essential. Legal professionals and stakeholders must ensure fairness and explore amicable solutions to minimize the emotional and financial strain on the parties involved (Awaludin et al. (2024).

II. Research Method

This journal uses a Juridical analysis approach method with a case study that researches social phenomena, observes, and investigates a social event in the field contained in the decision of the Medan District Court class I-A Special, which then the event is reviewed on a legal rule that applies in the articles in the Law juridically. This data collection method is carried out in this study using a Decision Number 393/Pdt.G/2024/PN Mdn at the Medan District Court class I-A Special as a Research Object by researching directly in the field at the SIPP of the Medan District Court using literature study, namely all data is read, understood, and recorded. After the data is analyzed, it is interpreted and described, and concrete illustrations are given to clarify the analysis in this Journal.

III. Result and Discussion

3.1. The juridical aspect of the basis of legal consideration of the decision of the Special Class I-A Medan Court Judge on divorce is unacceptable.

The juridical aspect of the basis of legal consideration of the decision of the Special Class I-A Medan Court Judge on divorce is unacceptable. Judge's consideration is essential thing in achieving the objectives of the Law, namely justice, certainty, and usefulness (article 53 of law number 48 of 2009 concerning judicial power), so the judge's consideration must be guided by the ten principles of principle that judges can treat by being addressed with high integrity, fairness, and criticality, at the stage of examining divorce lawsuit cases carried out in a closed session for the public, however, at the trial stage, the reading of the verdict letter should be carried out in a session that is not closed to the public. Divorce in the life order of the Indonesian National Police (Polri) includes other legal rules and procedures/procedures compared to divorce that occurs in civil society. Members of the National Police are obliged to comply with the regulations against various regulations, especially in the affairs of individual police members, such as divorce. In this case, the National Police has internal rules that each member must follow to file for divorce.

As for analyzing the case study, the research of a decision was delegated to the Medan District Court Class I. A. Special in Medan in the form of an unacceptable lawsuit divorce case. This decision, based on the facts of a couple of members of this poly, has tied himself to a legally valid marriage religiously since March 3, 2012. The applicable law in Indonesia has been recorded at the Medan City Population and Civil Registration Office by the Citation of the Marriage Certificate No. 1926/T/MDN/2012 dated November 27, 2012. In the marriage that has been built, there are three children, namely the first child is 11 (eleven) years old, the second child is 9 (nine) years old, and the third child is 5 (five) years old. For holding the trial at each stage of the divorce trial, the plaintiff, the legal counsel, and the defendant are present at the trial. As for continuing the peace, which is called mediation, the efforts made in mediation end without producing a solution and then continue with the prosecution of the reading of the plaintiff's lawsuit, whose content is still maintained. In this case, Plaintiff and Defendant have indeed quarreled endlessly since the beginning of the marriage. There is a long time gap between one quarrel and the other, but thus, Defendant has also never committed violence against Plaintiff.

On January 8, 2024, a joint statement letter was made between the Plaintiff and the Defendant; the plaintiff himself created the content of the letter, and he agreed to end his marriage; this means that Law Number 1 of 1974 and Government Regulation 9 of 1975 states that the reasons that can be used as the basis for divorce include those mentioned if there are continuous disputes and quarrels between the husband and

wife. There is no hope to live in harmony again in the household. With the colorful problems with their marital relationship, the plaintiff stated that the defendant had a mistress in this case, which did not contain the correct evidence of the plaintiff's lawsuit. However, the plaintiff has indeed been caught having a special relationship with another man named Iman Doani Sembiring, which the Defendant learned about in early 2023. There was another quarrel with the Defendant knowing when the wife of Iman Doani Sembiring contacted the Defendant through a message on social media and informed her that she found intimate conversations between her husband and the Defendant's wife that were very inappropriate doing so that it can cause legal consequences for married couples who often meet without permission from the defendant, to ensure the defendant's thoughts towards the plaintiff, he met Iman Doani Sembiring which can be said to be the plaintiff's affair by asking about the relationship between him and the Defendant's husband, where at that time Iman Doani Sembiring had admitted that he often communicated with the Defendant's wife. Therefore, the act committed by the plaintiff shows an act of disrespect and violates the principles and

A pledge of allegiance by a wife to her husband, as regulated and stipulated in Chapter IV of Law No. 1 of 1974 concerning Marriage, to legalize marriage, which is the husband's responsibility as seen from articles 33 and 34 of Law No. 1 of 1974 concerning Marriage. The defendant can try to betray the results to secure the household between the plaintiff and the defendant. The plaintiff no longer ignores the defendant, so the plaintiff files a divorce lawsuit. An inappropriate plaintiff means he is not bound to be a plaintiff. It can be seen that the plaintiff who intends to cause a quarrel in front of a small family bond between the Defendant and the plaintiff, which, according to the Civil Procedure Law, is precisely the legal basis of the divorce law, the plaintiff cannot act as a plaintiff to demand a divorce because the plaintiff himself is the cause of the dispute. Its provisions applied by the Supreme Court of the Republic of Indonesia as reflected in several Decisions of the Supreme Court of the Republic of Indonesia No. 2571 K/Pdt/1988 are connected to article 19 letter f of Government Regulation Number 9 of 1975

" As for the many reasons submitted by the plaintiff. It is not true because there are colors of disputes and quarrels that occur It is just an ordinary quarrel because it is resolved reasonably and amicably by the plaintiff and the defendant".

Considering the above description, it can be regarded as each value of the applicable legal aspects by connecting it to the provisions of the judgment specified in the judgment of the divorce lawsuit submitted by the plaintiff against the factors considering the scope of negligence in compiling the course according to the procedure, that the plaintiff and the defendant are members of the police, then based on the Government Regulation of the Republic of Indonesia. Number: 45 of 1990 concerning amendments to Indonesian government regulations. Number 10 of 1983 concerning Marriage and Divorce Licenses for Civil Servants refers to Article 18 of the Regulation of the Chief of Police (Perkapolri) No. 9 of 2010 concerning Procedures for Filing Marriage and Divorce. It refers to civil servants in the National Police of the Republic of Indonesia who obtain written permission from authorized officials. Based on Article 19 of the National Police Chief, there is a police regulation that must be adequately obeyed, but in the divorce case No. 393/Pdt.G/2024/PN. Mdn.

Considering the facts of the trial, it shows the understanding that the plaintiff applied for a divorce permit to the North Sumatra Police Human Resources Officer dated March 30, 2024 (evidence P.6) in the case decision letter Number 393Pdt.G./2024/PN Mdn and there has been no written reply from the superior who gave written permission for the divorce of the Defendant Bethesda Sembiring with the Defendant Erikson Tua Pandapota and that the Plaintiff filed a divorce lawsuit that had not received written permission from the superior so that the Plaintiff's Lawsuit lack of formality of the lawsuit, thus the Lawsuit through the Plaintiff in this case stipulated in the civil procedure law is called inadmissible (*Niet On Vankelijke Verklaard* or *NO*). In this case, violating the National Police Regulation No. 9/2010, including divorce without the superior's permission, will be sanctioned per the provisions of the Laws and Regulations (article 33 of the National Police Regulation No. 9 of 2010). This married couple is a member of the police force and receives disciplinary sanctions from superiors who have the right to punish (Ankum), Ankum superiors, and provosts.

3.2. Legal Consequences of Unacceptable Lawsuits in Divorce Cases in Decision Number No. 393/Pdt.G/2024/PN. Mdn

When a lawsuit is filed, it will automatically trigger a series of complex legal processes. This lawsuit is not just a demand but a formal step that brings legal consequences to all parties involved. The primary purpose of a lawsuit is to obtain justice and legal certainty. However, lawsuits can also cause various other legal consequences along the way. The legal implications of a lawsuit vary greatly and depend on several factors, such as the type of lawsuit, the strength of the evidence submitted, and the court's decision. The prevention carried out in finding a lawsuit is unacceptable; legal remedies can be taken by each party concerned by remaking and filing a new lawsuit to the Special Class I-A Medan Court. According to Yahya Harahap, the existence of an alternative in this situation, first, filing a lawsuit must be done a second time by the right of a plaintiff with the settlement route by destroying the defects in the lawsuit to correct the shortcomings that existed in the previous lawsuit. Submitted to make an application for legal remedy to the Medan High Court and the Supreme Court seeks law at the cassation level if the application for a case is filed from 14 days after the imposition of the court decision and the passage of time, it can extend the completion of the completion stage.

The authority of the Special Class I-A Medan Court, the chairman of the Special Class I-A Medan Court, would be suitable for someone who fights for justice by trying to work smartly in the Special Class I-A Medan Court. Therefore, it does not take sides with any plaintiff or defendant. Still, it provides information by increasing judicial transparency and complaint and suggestion mechanisms, and the public is as critical as possible for acting wisely and being sensitive to the applicable regulations. Preventing an inadmissible lawsuit is essential because it can economically utilize time, cost, and effort. In addition, a properly filed lawsuit will increase the chances of winning the case.

The marriage between the Plaintiff and Defendant, by the Citation of the Marriage Certificate No. 1926/T/MDN/2012 dated November 27, 2012, ended due to divorce with all its legal consequences according to article 41 of the Marriage Law, which in this case caused legal implications by the stipulation that handing over child custody in the event of divorce should be preferential to the biological mother, while the legal consequences carried out on the divorce are unacceptable for giving rise to Legal Disciplinary Actions. Especially the legal provisions on the custody of children who are still under the age of twelve because seeing a minor child is usually close to the mother's side so that the child gets good care, then the inner relationship and responsibility of a father are more like providing maintenance for his children and satisfying the needs of his children's education costs in the amount of 1/2 of the Defendant's salary every month no later than the 10th of each month. The plaintiff will make monthly cash or bank transfers until the three adult children are born. As for the demand, the provision will still give access to meet with his biological father, namely the Defendant / Defendant. Child support is an essential effort in Indonesian family law to protect children's rights and ensure their well-being after a parental divorce.

Determining the amount of alimony, bail confiscation, and salary deduction are several guarantees that can be applied to ensure the fulfillment of children's living needs. The guarantee of child support of the plaintiff and the defendant in the case of case 000000000000 consists of the following:

- a. House on Jl. Air Bersih Ujung Gg. Anda Housing Jasari Park Blok Melati No. 10 Kel. Binjai, Medan Denai, Medan City, North Sumatra, Indonesia;
- b. Land and Buildings on Jl. Air Bersih Ujung Gg. Anda Housing Jasari Park Blok Melati No. 11 Kel. Binjai, Medan Denai, Medan City, North Sumatra, Indonesia;
- c. Land in Simalingkar B River Valey housing;
- d. 3 units of Shophouses on Jl. Menteng 7 No. 31A, 31B, 31C, Kel. Binjai, Medan Denai, Medan City, Indonesia;
- e. 1 unit of black Toyota Avanza brand four-wheeled vehicle with license plate number BK 1465 FA of 2017 in the name of the Defendant;

- f. 1 unit of Yamaha NMAX motorcycle with license plate number BK 2888 AIL in 2019.

Form of disciplinary action according to Government Regulation Number 2 of the year 2010 concerning Discipline of Members of the National Police, Government Regulation No. 2 of 2003 concerning Discipline of Members of the National Police, and Government Regulation No. 45 of 1990 Amendments to Government Regulation No. 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants. The provisions for the form of disciplinary punishment for members of the police who commit violations are as follows:

- a. There is a form of severe disciplinary punishment that is determined by Government Regulation No. 30 of 1990. Demotion can only be done one level lower, and the validity period does not exceed one year; Civil Servants can be relieved of their positions, dismissed with honor at their request, or rejected without honor as a form of termination of employment relations.
- b. The warning of the legal form of discipline in question is:
 - 1) A written warning, the provisions of article 10 that this does not eliminate the right to impose the necessary disciplinary sanctions. As for the form of warning.
 - 2) Namely Postponement of education for a maximum of 1 (one) year, Postponement of periodic salary for a maximum of 1 (one), promotion for a maximum of 1 (one) year, Mutation of demotion, Exemption from position and Placement in a special place for a maximum of 21 (twenty-one) days. Sanctions for violations of the KKEP of the National Police professional code of ethics listed in Article 21 of Perkap 14 of 2011 can be in the form of assessment as a reprehensible act, the need to apologize both verbally and in writing, following coaching, removal from office, mutation of demotion, and dismissal without respect. Meanwhile, disciplinary violations will be punished by Article 9 of Government Regulation Number 2 of 2010 concerning Discipline of Members of the National Police."
 - 3) Verbal warnings and/or physical actions and disciplinary actions in Article 8 of Government Regulation Number 2 of 2010 concerning Discipline of Members of the National Police are disciplinary actions

- 3.3. Divorce permit from superiors/officials/commanders for members of the National Police by Law No. 9 of 2010 concerning Procedures for Filing Marriage, Divorce, and Referral for Civil Servants in the National Police of the Republic of Indonesia is a complete matter that is not just an administrative requirement but has become a formal requirement"

In the case of a divorce lawsuit that has been registered, the judge should be able to pay attention to whether the defendant or the plaintiff is a member of the port or a TNI, so if in a divorce case, a plaintiff or defendant has not obtained a divorce permit, then the action taken by the panel of judges by considering the postulate of truth if it is hard to carry out a divorce, the Panel of Judges instructs the plaintiff or accused to Immediately submit the divorce lawsuit by the proper procedure as appropriate for the dispensation giver for a maximum time of 6 (six) months. There is no rule regarding the time during the procedure for processing permits from superiors/officials. However, if it is connected to Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants There are only 3 (three) months. For the provision of a duration of twice as long, namely for a period of 6 (months), if the instructions of the Panel of Judges are obeyed wholeheartedly, of course, it will be sufficient to take care of permits by Law No. 9 of 2010 concerning Procedures for Filing Marriage, Divorce, and Referral for Civil Servants in the National Police of the Republic of Indonesia and related laws.

The fulfillment of administrative and formal requirements is an absolute thing carried out by police members who are granted divorce permits by acting or superiors. In a marriage, what can be recorded is the compliance that fulfills provisions of all the requirements of the formal and material marriage that have been stipulated in the applicable rules. As for this, if there is a filing of a lawsuit or a divorce application within the scope of the wife or husband and the head of the family member, police member, or member of the TNI does not have permission or has not received a reply letter of divorce permission from the superior/official, then the lawsuit or application must be considered not meeting the formal requirements so that it must be regarded as formally defective, therefore, of course, it is declared unacceptable or the decision of the divorce lawsuit this kind of *Niet Ontvankelijke Verklaard* (NO).

IV. Conclusion

Based on the results of the discussion that the panels have unraveled to provide suggestions connected to Case Study No. 393/Pdt.G/2024/PN Mdn in an unacceptable divorce case, which is as follows:

1. In a marriage relationship, there must be a warm communication relationship, respect for husband and wife, understanding, and more concerned about the interests of the wife than other people or biological parents, in the sense that as children (husband and wife) of parents does not mean that we have to ignore the parents but there are limits that are affordable in some instances to maintain family relationships, trust between husband and wife is the main foundation.
2. In this case, there is still a lack of information on divorce requirements and procedures for police members, divorce permits to obtain divorce permits from superiors or heads of work units, so that transparency of information related to absolute requirements and divorce procedures for police members is needed, in this case, it can help police members understand their rights and obligations at every step to carry out the divorce process.
3. The role of mediators is constructive in the divorce process so that there is an agreement and a peaceful resolution of the conflict. In this regard, it is still necessary to improve the quality and quantity of mediators who understand the unique needs of police members.

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