

Abstrak

Skripsi dengan judul “Studi Komparasi Putusan Pengadilan Agama Nomor 771/Pdt.G/2022/PA.JU Dan Pengadilan Negeri Nomor 562/Pdt.G/2023/PN.Jkt.Utr Tentang Penetapan Hak Asuh Anak Ditinjau Dari Hukum Islam Dan Undang-Undang Perlindungan Anak” ini ditulis oleh Rahmania Jihan Sadidah, NIM 126102213288, dengan pembimbing Prof. Dr. Kutbuddin Aibak, S.Ag., M.H.I.

Kata Kunci: Hak Asuh Anak, Putusan Pengadilan Agama, Putusan Pengadilan Negeri, Hukum Islam, Undang-Undang Perlindungan Anak

Penelitian ini membahas mengenai perbandingan dua putusan pengadilan yaitu putusan Pengadilan Agama Nomor 771/Pdt.G/2022/PA.JU dan putusan Pengadilan Negeri Nomor 562/Pdt.G/2023/PN.Jkt.Utr dalam perkara penetapan hak asuh anak. Dalam duduk perkaranya para pihak penggugat memohon agar hak asuh anak berada dalam asuhan penggugat. Setelah diketahui alasan pengajuan gugatan keduanya mempunyai pokok permasalahan dan amar putusan yang berbeda. Putusan Pengadilan Agama jatuh pada pihak ibu dan ayah, sedangkan putusan Pengadilan Negeri jatuh pada pihak ayah.

Tujuan penelitian ini diharapkan mampu memberikan pemahaman keilmuan tentang 1) Pertimbangan hakim dalam memutuskan perkara penetapan hak asuh anak pada Putusan Pengadilan Agama Nomor 771/Pdt.G/2022/PA.JU dan Pengadilan Negeri Nomor 562/Pdt.G/2023/PN.Jkt.Utr; 2) Persamaan dan perbedaan Putusan Pengadilan Agama Nomor 771/Pdt.G/2022/PA.JU dan Putusan Pengadilan Negeri Nomor 562/Pdt.G/2023/PN.Jkt.Utr tentang penetapan hak asuh anak; 3) Analisis terhadap prinsip kepentingan terbaik bagi anak pada Putusan Pengadilan Agama Nomor 771/Pdt.G/2022/PA.JU dan Pengadilan Negeri Nomor 562/Pdt.G/2023/PN Jkt.Utr yang telah berkekuatan hukum tetap ditinjau dari Hukum Islam dan Undang-undang Perlindungan Anak.

Metode penelitian ini adalah penelitian hukum normatif yang berfokus pada kajian norma-norma hukum dalam suatu sistem hukum tertentu. Penelitian ini menggunakan dua pendekatan yaitu 1) Kasus dengan cara menelaah kasus hak asuh anak yang telah menjadi putusan pengadilan; 2) Komparatif dengan membandingkan pertimbangan dan penetapan putusan Pengadilan Agama dan Pengadilan Negeri. Pengumpulan datanya menggunakan dokumentasi yang diperoleh dari data primer dan sekunder.

Hasil penelitian menunjukkan bahwa: 1) Putusan Pengadilan Agama dan Pengadilan Negeri menggunakan dasar pertimbangan yang berbeda, putusan Pengadilan Agama berdasarkan kesepakatan mediasi, sedangkan Putusan Pengadilan Negeri berdasarkan bukti-bukti dan keterangan saksi yang diajukan oleh Penggugat Rekonvensi. 2) Perbandingan antara putusan Pengadilan Agama dan putusan Pengadilan Negeri, keduanya memiliki banyak perbedaan dibandingkan persamaannya. Terutama dalam penjelasan isi putusan pada pertimbangannya Pengadilan Agama tidak sejelas Pengadilan Negeri. 3) Analisis prinsip kepentingan terbaik bagi anak pada dua putusan pengadilan tersebut ditinjau dari hukum Islam dan UU Perlindungan Anak, kedua putusan tersebut telah sesuai.

Abstract

Thesis with the title "Comparative Study of Religious Court Decision Number 771/Pdt.G/2022/PA. JU and District Court Number 562/Pdt.G/2023/PN. Jkt.Utr on the Determination of Child Custody Reviewed from Islamic Law and Child Protection Law" was written by Rahmania Jihan Sadidah, NIM 126102213288, with the supervisor Prof. Dr. Kutbuddin Aibak, S.Ag., M.H.I.

Keywords: *Child Custody, Religious Court Decisions, District Court Decisions, Islamic Law, Child Protection Law*

This research discusses the comparison of two court decisions, namely the decision of the Religious Court Number 771/Pdt.G/2022/PA. JU and District Court decision Number 562/Pdt.G/2023/PN. Jkt.Utr in the case of determination of child custody. In the sitting of the case, the plaintiffs requested that the custody of the child be in the care of the plaintiff. After knowing the reasons for filing the lawsuit, the two have different subject matter and verdicts. The decision of the Religious Court falls on the mother's and father's side, while the District Court's decision falls on the father's side.

The purpose of this research is expected to be able to provide a scientific understanding of 1) The judge's considerations in deciding the case of determining child custody in the Decision of the Religious Court Number 771/Pdt.G/2022/PA. JU and District Court Number 562/Pdt.G/2023/PN. Jkt.Utr; 2) Similarities and differences in the Decision of the Religious Court Number 771/Pdt.G/2022/PA. JU and District Court Decision Number 562/Pdt.G/2023/PN. Jkt.Utr on the determination of child custody; 3) Analysis of the principle of the best interests for children in the Decision of the Religious Court Number 771/Pdt.G/2022/PA. The JU and the District Court Number 562/Pdt.G/2023/PN Jkt.Utr, which have had the force of law, are still reviewed from Islamic Law and the Child Protection Law.

This research method is a normative legal research that focuses on the study of legal norms in a certain legal system. This study uses two approaches, namely 1) Cases by examining child custody cases that have become court decisions; 2) Comparative by comparing the considerations and determination of decisions of the Religious Court and the District Court. The data collection uses documentation obtained from primary and secondary data.

The results of the study show that: 1) The Religious Court and the District Court decisions use different considerations, the Religious Court decisions are based on mediation agreements, while the District Court decisions are based on the evidence and witness statements submitted by the Reconvension Plaintiffs. 2) The comparison between the Religious Court decision and the District Court decision, both have many differences compared to the equation. Especially in explaining the content of the decision, in his consideration, the Religious Court is not as clear as the District Court. 3) The analysis of the principle of the best interests of the child in the two court decisions is reviewed from Islamic law and the Child Protection Law, both decisions are appropriate.