

LEGAL ANALYSIS OF LATE MARRIAGE REGISTRATION APPROVAL AT TANJUNGPINANG DISTRICT COURT (Case Study of Decision 24/Pdt.P/2023/PN Tpg)

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Abstract

Marriage is a legal act that has legal consequences for both husband and wife and for the status of children. Marriage registration, as regulated in Law Number 1 of 1974 concerning Marriage in conjunction with Law Number 16 of 2019 and Law Number 23 of 2006 concerning Population Administration in conjunction with Law Number 24 of 2013, is crucial to ensure legal certainty and protection. However, in practice, some marriages are not promptly registered, leading to legal issues, one of which is the case of late marriage registration validation, as decided in Decision Number 24/Pdt.P/2023/PN Tpg at the Tanjungpinang District Court. The purpose of this study is to determine and analyze the judge's legal considerations in granting requests for late marriage registration validation, examine the legal consequences of these decisions on marital status and the status of children, and identify obstacles and solutions to implementing late marriage registration validation. This study employed a normative-empirical legal research method with statutory, case-based, conceptual, and sociological-empirical approaches. Data were obtained from legislation, doctrine, court decisions, and interviews, then analyzed qualitatively to assess the consistency of the application of legal norms in judicial practice. The results show that the Panel of Judges, in Decision Number 24/Pdt.P/2023/PN Tpg, granted the applicant's petition, considering the fulfillment of formal and material requirements according to civil procedural law, and for the sake of legal certainty. The decision affirmed that a valid marriage according to religion can still obtain formal legality through late registration with court permission. In conclusion, the validation of late marriage registration provides legal protection for the legal status of husband, wife, and children. The author recommends that the public be more disciplined in registering marriages from the outset, and that the government improve public awareness and marriage administration services to prevent similar cases in the future.

Keywords: Marriage, Marriage Registration, Validation, District Court Decision

INTRODUCTION

In essence, humans are creatures of God Almighty, endowed with reason and intellect, a unique characteristic compared to other creatures. From birth, humans cannot live alone; they must live side by side with others in a social order. This shared life provides a means for fulfilling both physical and spiritual needs in daily life (Soekanto, 2017). In general, every individual born under normal conditions has a natural urge to find a life partner, which is then realized through the bond of marriage. Marriage is a covenant or agreement between a man and a woman to live together as husband and wife legally according to law. The validity of a marriage is determined by recognition from the family, community, and authorized institutions, in accordance with the prevailing social norms and values in each environment. Therefore, marriage is viewed as a sacred, dignified, and sacred institution. The marriage bond that forms a household is a manifestation of human instinct as social beings to maintain their survival. In the structure of society, the most basic form of social group is the family, namely the smallest social unit formed by the bond of marriage, consisting of a husband, wife, and children under age 1. The Republic of Indonesia, as a country based on Pancasila, where the First Principle is Belief in the One Almighty God, then marriage is considered to have a very close relationship with Religion or Spirituality so that it does not only contain physical or physical. The Republic of Indonesia as a State of Law has regulated the Law on Marriage which is stated in Law Number 1 of 1974,

supplemented by Government Regulation Number 9 of 1975, namely regarding the implementation of Law Number 1 of 1974 concerning Marriage, and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI) and other regulations regarding Marriage. According to Article 2 paragraph (1) we know that a marriage is valid if it is carried out according to the laws of each religion and belief. This means that a marriage is considered perfect and valid if cumulatively it fulfills the 2 (two) conditions above, namely that it is carried out according to religion and is registered. Regarding marriage registration according to Article 2 of PP 9/1975, there are two institutions authorized to register the marriage, namely the registrar at the Office of Religious Affairs (KUA) for marriages conducted according to Islamic Religious Law or the Population and Civil Registration Service (Disdukcapil) for marriages conducted according to Religious Law other than Islam. This means that if a marriage has fulfilled the requirements and the pillars of marriage or the Ijab Qabul has been carried out (for Muslims) or the priest/pastor has carried out the blessing or other rituals, then the marriage is valid, especially in the eyes of religion and belief in society. However, the validity of this marriage in the eyes of religion and in the eyes of belief in society needs to be ratified again by the State, in this case the provisions are contained in Article 2 paragraph (2) of the Marriage Law, concerning marriage registration.

Based on research findings, several key factors contribute to unregistered marriages. These include polygamy, the belief that marriage registration is not a religious obligation, ignorance of the function and importance of marriage certificates, and personal reasons such as advanced age and a desire to cover up past shame. Law Number 1 of 1974 concerning Marriage has been in effect for over fifty years. Over time, this law has matured, providing ample scope for public outreach and education. In terms of content, this law is considered to have sufficient legal force, although several of its provisions have been challenged in the Constitutional Court. However, there is one important provision that has not yet been fully implemented, namely the obligation to register marriages as expressly stipulated in Article 2 paragraph (2). Ideally, after five decades of implementation, all marriages in Indonesia would be officially registered. Unfortunately, the implementation of this regulation has not yet been optimal. Based on data on marriage confirmation applications recorded at Religious Courts throughout 2024, the Supreme Court reported that the number of cases received only reached 60,923. If this figure is used as an annual average and multiplied by 50 years, the total number is only approximately 3,046,150 cases. However, this data comparison remains speculative as no party has accurate and complete data. Clearly, the trend in unregistered marriages remains quite high and has not shown a significant decline, especially when compared to the ideal age for marriage. From 2019 to 2024, the marriage rate consistently declined, while the divorce rate crept up.

The marriage rate in 2019 remained above 2 million (2,033,585). Subsequently, the number of recorded marriages continued to decline (2020: 1,780,346, 2021: 1,743,450, 2022: 1,719,592). In 2023, the marriage rate plummeted further to 1,577,493. The marriage rate in 2024 also declined, with 1,478,424 marriages recorded, 99,069 fewer than the previous year. This is compared by age group, for example, those aged 20-34, with 66,849,456 (processed from 2024 BPS data). So the number of people who are married is recorded at only 0.02% of the population aged 20-34 years. Is the assumption that there are actually quite a lot of people At the Tanjungpinang District Court, one of the cases related to late marriage registration is Decision Number 24/Pdt.P/2023/PN Tpg, in which the applicant filed a request to validate a marriage registration that had been carried out years earlier but had not yet been registered. This decision is interesting to analyze legally because it reflects the application of the law in a concrete case, including how the judge interpreted the relevant regulations and weighed the interests of the parties who are married but only a few are registered.

LITERATURE REVIEW

Marriage in Legal and Social Context

Marriage is a life partnership between a man and a woman which is formally confirmed by law, namely juridical and mostly also religious according to the purpose of husband and wife and law, and is carried out for life according to the institution of marriage (Tutik, 2006). In general, marriage is an act of agreement between two people to sit at the altar, then live together experiencing the joys and sorrows of navigating the dynamics of the ship of family life. In the Republic of Indonesia Law Number 1 of 1974 concerning Marriage, Chapter I, Article 1, marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God. If we examine the definition of marriage according to Marriage Law Number 1 of 1974, namely "a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God" above, then there are five elements in it, namely: Physical and spiritual bond, Between a man and a woman, As husband and wife, Forming a happy and eternal household, Based on the One Almighty God.

Sources of Marriage Law in Indonesia

Marriage law in Indonesia is derived from various laws and regulations, both national, sectoral and local, as well as from religious and customary norms that exist in society. Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. This is the basic law that regulates general provisions regarding marriage, such as the requirements and procedures for marriage, the rights and obligations of husband and wife, divorce, and other provisions. Government Regulation Number 9 of 1975 is an implementing regulation of the Marriage Law which provides technical details regarding the implementation of marriage registration, divorce, and administration of marriage. Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI) serves as a material and formal legal guideline for Muslims in Indonesia regarding marriage, divorce, and inheritance, which refers to the principles of Islamic law.

Valid Conditions for Marriage

Marriage is a legal act that directly results in legal consequences, both civil and social. Therefore, the validity of a marriage is crucial, considering that its validity will determine the validity of the rights and obligations between the parties, as well as the legal impact on children, property, and the legal status of the family. According to Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage, the validity of a marriage is determined by the religious and religious beliefs of each party. This article states: "A marriage is valid if it is conducted according to the laws of each respective religion and belief." Therefore, the state recognizes the validity of a marriage that meets the requirements according to the religious teachings of the prospective husband and wife, before being administratively registered by the state as stipulated in Article 2 paragraph (2) of the same law.

Obligation to Register Marriages

One important aspect that differentiates Islamic law from positive law in Indonesia regarding marriage is the issue of marriage registration. In classical Islamic law, marriage registration is not a requirement for a valid marriage contract, as long as the pillars and requirements of marriage according to sharia are met. However, in the context of Indonesian national law, which adheres to a positive law system, marriage registration is a legally binding obligation. Provisions for Marriage Registration According to Positive Law, In Article 2 paragraph (2) of Law Number 1 of 1974 as amended by Law Number 16 of 2019, it is stated that: "Every marriage is recorded according to the applicable laws and regulations." This clause makes marriage registration an administrative obligation to guarantee the legality and recognition by the State of a marriage relationship.

Determination/Confirmation of Marriage (Itsbat Nikah)

Marriage confirmation has significant legal implications, particularly in providing stronger protection for the rights of women and children in the context of divorce. In various regions, especially rural areas, marriage and divorce practices often take place informally, without official registration. Divorces are often not legally conducted through proper legal procedures. Many cases have been found where husbands convey their decision to divorce only through intermediaries, verbal messages, or even telephone calls. As a result, after divorce, women often return to their parents' homes with their children, without obtaining rights to joint property (gono-gini), due to the lack of legal proof of marriage under state law. It's important to understand that under the national legal system, informal marriages (nikah siri) are not legally recognized because they do not meet the registration requirements. Registration is only valid if performed by an authorized official, namely a Marriage Registrar (PPN), who is administratively under the Office of Religious Affairs (KUA). Although often misunderstood, the marriage registrar is not the party who performs the marriage, but rather the one who registers the marriage. However, under certain circumstances, the marriage registrar can act as a guardian (naibul wali) if there has been a legal delegation of authority from the actual guardian.

METHOD

This research is a normative-empirical legal study. Normative legal research focuses on written legal materials, namely statutory regulations, court decisions, doctrines, and relevant legal literature. This research does not use statistical data or field surveys, but rather emphasizes literature review (Soekanto, 2015). Meanwhile, empirical legal research is used to observe how legal provisions are applied in practice (law in action). This approach involves collecting primary data through interviews with competent parties, such as judges at the Tanjungpinang District Court, officials from the Population and Civil Registration Office, and other sources familiar with the procedures for validating late marriage registrations. In this case, the approach method in this research is used to

analyze the legalization of marriage in Case Number 24/Pdt.P/2023PN Tpg and the status of underhand marriage according to the provisions of the laws and regulations in force in Indonesia and the legal consequences that occur. The location of this research was carried out in the Riau Islands Province, specifically in the cities of Tanjungpinang and Batam.

RESULTS AND DISCUSSION

Legal Regulations for Late Validation of Marriage Registration at the Tanjungpinang District Court

Late marriage legalization is not a legal product, but rather a legal regulation, encompassing the entire process of legalizing an unregistered marriage. This regulation is governed by a strict framework, starting with a strong legal foundation, namely the Marriage Law and the Population Administration Law. The process begins with the couple submitting an application to the Tanjungpinang District Court. In the application, they must explain the reason for the delay and include important evidence such as their ID card (KTP), Family Card (Kartu Keluarga), and a marriage certificate from a religious leader. Once the documents are complete, they will attend a hearing. Before the judge, they will provide testimony and bring witnesses to confirm that their marriage actually took place. If their application is approved, the judge will issue a Marriage Legalization Decree (Penetapan Pengesahan Perkahwinan). This document serves as a bridge for the couple to obtain a marriage certificate from the Population and Civil Registration Office (Disdukcapil). With this certificate, their marriage is now fully recognized by the state, and all legal rights and obligations arising from the marriage are valid. In short, the Tanjungpinang District Court plays a vital role in providing solutions for citizens who delay registering their marriages. This arrangement ensures that every citizen has the opportunity to obtain clear legal status, which is also essential for other rights, such as obtaining birth certificates, inheritances, and other official documents.

Implementation of Late Marriage Registration Validation at Tanjung Pinang Court

Late marriage validation is essentially a legal effort to obtain administrative legality for a marriage that has been legally performed according to religion but has not yet been registered by the state. This process is submitted to the District Court to obtain a ruling that can be used as the basis for registration at the population office. The process for filing a marriage validation application can be carried out at the local District Court. This application is considered a voluntary case, namely a non-contentious application that does not involve a dispute between the parties, but is solely aimed at obtaining legal certainty and validation from a judicial institution. This application is submitted to obtain a judge's ruling that will serve as the basis for administrative marriage registration at the authorized agency, such as the Population and Civil Registration Service (Disdukcapil). The application is submitted by a non-Muslim couple who have married according to their religious rites but have not yet registered the marriage at the Civil Registry Office as required by Article 2 paragraph (2) of Law No. 1 of 1974 concerning Marriage and Article 3 number 17 of Law No. 24 of 2013 concerning Population Administration.

From the results of interviews with notaries, it can be concluded that marriage certificates play a very important role in the process of applying for a Home Ownership Credit (KPR). This document not only serves as proof of the legal status of husband and wife, but also serves as the basis for binding credit agreements, in the preparation of the Deed of Mortgage Encumbrance (APHT) and credit agreements made before a notary/Land Deed Official (PPAT). Without this document, agreements in the names of two people cannot be processed because there is no valid legal relationship between them according to the state. If a couple is only married religiously and has not registered their marriage with the civil registry office, then administratively they are considered unmarried according to state law. The absence of a marriage certificate creates legal obstacles when KPR applications are made in joint names. Banks as credit institutions require a clear legal basis to establish joint ownership and the division of responsibility for debt, in accordance with the principle of prudence in banking practices. In addition, marriage certificates are needed to match data on the Family Card, KTP, and house certificate, to prevent discrepancies that could trigger legal disputes in the future. From the description, the implementation of the application for marriage validation was received late and the applicant received authentic validation of the marriage certificate or Marriage Certificate from the Population and Civil Registry Service which can be used by the parties.

Obstacles and Solutions to Late Marriage Registration Validation at the Tanjungpinang District Court

There are several obstacles, but there are also solutions to overcome them: First, many people are unaware that registering a marriage at a government office is mandatory. They feel that a religious or customary marriage is already valid. Second, administrative matters often present obstacles. Couples lack complete documents such as an Identity Card (KTP) or Family Card (KK), or their data doesn't match, slowing down the process. Third, there are

personal issues. Some marriages are conducted secretly due to family issues or age differences, so they delay registration for fear of being negatively perceived by the community. Finally, legal fees and processes are often expensive and complicated, especially for non-Muslims. Furthermore, the relevant offices are not well connected, making the process lengthy. There are several solutions to address this problem. First, the government and the public must intensify education about the importance of marriage registration. Second, the administrative process must be simplified. Documents must be easier to process, and data must be connected between offices. Third, the government can provide legal assistance or funding for couples who cannot afford it. Fourth, building a digital system that connects all relevant offices, such as the Office of Religious Affairs (KUA), the Population and Civil Registration Service (DisDukcapil), and the courts, will greatly help speed up the process. He further emphasized that marriage registration is not merely an administrative formality but is closely related to civil law. Marriage creates a bond between husband and wife, which gives rise to mutual rights and obligations, including debts. Not all contracts are formalized in a notarial deed, so marriage registration serves to ensure all legal consequences are clearly documented. Thus, such registration provides legal protection and prevents legal abuse. Thus, the court decision not only functions as a formal legitimation of the marriage, but also as an essential legal instrument to restore and guarantee the fundamental rights of individuals who are neglected due to delays in registering the marriage.

CONCLUSION

Legal provisions regarding the validation of late marriage registration at the Tanjung Pinang District Court. A marriage is considered valid in substance if it complies with Religious Law. However, to obtain legal recognition and formal legality from the state, a marriage must be registered administratively. Referring to: The Marriage Law (Law No. 1 of 1974), as amended by Law No. 16 of 2019, serves as the primary basis for requiring marriage registration (Article 2 Paragraph 2); The Population Administration Law (Law No. 23 of 2006), as amended by Law No. 24 of 2013, reinforces this obligation (Articles 34 and 36); and the Civil Procedure Code, which provides a legal appeal process. Implementation of the validation of late marriage registration at the Tanjung Pinang District Court. This is in accordance with the provisions of the Marriage Law, which state that a marriage is valid if conducted according to religion or belief. This is the basis for the decision. Through Decision Number 24/Pdt.P/2023/PN.Tpg, the Tanjungpinang District Court has provided legal protection to non-Muslim couples whose marriages were registered late. This decision validates marriages that are already valid according to religion and ensures that the couple receives legal recognition and civil rights from the state, including rights related to child status, inheritance, and population documents. Obstacles and Solutions for Late Marriage Registration, Obstacles posed by late marriage registration result in the lack of an authentic marriage certificate, requiring a marriage ratification application. The solution to obtain ratification is for the parties to submit a marriage ratification application to the court. Marriages that are not promptly officially registered can give rise to various legal issues. Children born out of wedlock are considered illegitimate children, and therefore have only a civil relationship with the mother, unless acknowledged or validated by the father. In terms of inheritance, illegitimate children are not entitled to the father's assets without recognition or validation. Administratively, couples are not recognized as husband and wife in population documents, and children are listed only as the mother's children. This situation creates legal obstacles in processing documents, inheritance, and accessing public services. Therefore, timely marriage registration is crucial for obtaining legal recognition and protection from the state.

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