Putusan Pengadilan Agama Sebelum Dan Sesudah Berlakunya
Undang-Undang Nomor 7 Tahun 1989 =
Execution Of Islamic Court Decision Before And After
Validity The Law Number 7 Of 1989

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Abstract

Before the Law Number 7 of 1989 is legalized, the competency and position of
Islamic Court has not powerful, because every decision of Islamic Court Institution needs a
strengthening and fiat execution from the General Court. The fiat execution institution was
created intentionally by the Dutch Colonial Government to bridge and control Islamic Court
Institution, by manner its structure is not completed with the bailiff, so Islamic Court will be
unpowerful to execute its decisions. After the Law Number 7 of 1989 is legalized Islamic
Court has powerful, the meaning is all of Islamic Court decisions are not necessary to have a
strengthening and fiat execution from the General Court, so Islamic Court can do its function
easily. Like that also about competency to execute the decision is as a new function for
Islamic Court, because before validity the Law Number 7 of 1989 that competency is in
General Court. But after the Law Number 7 of 1989 is legalized that competency is in Islamic
Court, but the procedure and manners of decision execution always follow civil judicial rules
or the rules as valid in the General Court. But in fact, there are still Moslems in Medan to find
justice or to that in Islamic Court, chose their dispute arrangement in General Court in arrange
their dispute or civil cases, although it is refused at last. Whereas that case is better proposed
to the Islamic Court. Therefore it is necessary a research why that happened.

This research is done to obstain the fact of all problems which is observed and to find
the answers all at once. This research used a juridical normative and juridical sociological
approach methods with the research character, are descriptive and prescriptive. The research
populations are 4 judges from Islamic Court of Medan 1 clerk, 1 acting clerk, 2 acting bailiffs,
2 lawyers, 22 people which were concerned with Islamic Court of Medan, 5 people Ulama
community's leaders, they are added with 1 judge from High Islamic Court 'of North
Sumatera, 1 people from the Ulama Council of Medan and 5 Heads of District of Islamic
Affairs Office, as informen to complete the secondary data information. The samples were
appointed purposively. The primary data collector are interview and questionnaire, while the
secondary data is by library study. The data analysis were done by qualitative approach, either
deductive or inductive with always take direction from juridical normative sociological.

The research result show that execution of Islamic Court decision before the Law
Number 7 of 1989 is not valid and can be fulfilled immediately before obtain
strengthening and fiat execution from General Court, Especially for inheritance and gift
decisions do not need strengthening by General Court, because most of the people do not
know, what inheritance and gift cases are as competency of Islamic Court or General Court,
then because the difference of understanding about the aim of the Law Number 1 of 1974
Article 63 paragraph (2) is related with Government Regulation Number 9 of 1975 Article 36
and because usually most of judicial decisions about inheritance gift have decree character, so
most of them are not executed. It is different with execution of Islamic Court decision after
validity the Law Number 7 of 1989 can be executed immediately, can be valid effectively and
it is not necessary to have strengthening from General Court. About the decision of
inheritance and gift cases always can be received by community of Medan, this case can be
seen that Islamic Court decisions were obeyed, fulfilled and efficient, it is not broken and
discard, even as Islamic Court decision is very belief if be compared with General Court
decision, and able to give sense of justice to the people who seek justice, especially about inheritance and gift decisions. Like that also presentation of the bailiff so Islamic Court decision is more strong, authority and powerful. The obstacles about execution of Islamic Court decision before validity the Law Number 7 of 1989 is caused giving back of the decision which is strengthened too late, but at last it can be overcome after made some approaches. But after, validity the Law Number 7 of 1989 there is not bailiff, so the execution is done in ex opicio way by the clerk or acting bailiff, the legislative and executive sides to omit choice of law especially for Moslems' inheritance cases.

Key words:  
- Execution  
- The Law Number 7 of 1989  
- The Islamic Court of Medan  

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