

**STATUS DAN KEDUDUKAN AHLI WARIS LAKI-LAKI
YANG BERPINDAH AGAMA BERDASARKAN HUKUM ADAT BALI
(Studi Putusan Mahkamah Agung Nomor 1312 K/Pdt/1992)**

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ABSTRAK

Penelitian ini bertujuan (1) mengetahui status dan kedudukan ahli waris laki-laki yang berpindah Agama berdasarkan hukum adat Bali, serta (2) mengetahui pertimbangan Hakim terhadap status dan kedudukan ahli waris laki-laki yang berpindah Agama dalam pewarisan hukum adat Bali berdasarkan putusan Mahkamah Agung Nomor 1312 K/Pdt/1992. Jenis penelitian yang digunakan oleh peneliti adalah penelitian hukum normatif, yakni melalui pendekatan peraturan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Sumber bahan hukum yang digunakan yaitu Undang-Undang Dasar 1945, *Awig-Awig* Desa Adat Gerokgak, dan Putusan-putusan hukum. Teknik pengumpulan bahan hukum yang dilakukan yaitu dengan mengkaji atau menganalisis putusan-putusan hukum yakni putusan Pengadilan Negeri Singaraja, Pengadilan Tinggi Denpasar, dan Mahkamah Agung R.I. Hasil penelitian menunjukkan bahwa (1) secara normatif hukum adat Bali, status dan kedudukan ahli waris laki-laki yang berpindah agama tidak lagi berhak menerima hak waris karena dianggap telah meninggalkan rumah atau "*Nilar Kawitan*" yang tidak memungkinkan lagi untuk melaksanakan kewajiban-kewajiban dari pewaris maupun masyarakat adatnya (2) putusan Hakim dalam memberikan keputusan terhadap ahli waris laki-laki yang berpindah agama dalam pewarisan hukum adat Bali apabila ditinjau dalam putusan Mahkamah Agung Nomor 1312 K/Pdt/1992 yaitu bahwa ahli waris laki-laki yang berpindah Agama (Penggugat) mendapatkan haknya sebagai ahli waris dari pewaris. Dalam putusan hukum dinyatakan bahwa *Awig-Awig* Desa Adat Gerokgak tidaklah berlaku surut, artinya tidak mengikat Penggugat karena penggugat berpindah Agama sebelum diberlakukannya peraturan desa atau *Awig-Awig* Desa Adat Gerokgak, sehingga ketika Penggugat berpindah Agama tidak ada ketentuan yang melarang Penggugat.

Kata Kunci : Kedudukan, Ahli Waris Laki-Laki berpindah Agama, Adat Bali.

**STATUS AND POSITION OF MALE HERITAGES THAT CHANGE
RELIGION BASED ON BALI TRADITIONAL LAW
(Study of Supreme Court Decision Number 1312 K/Pdt/1992)**

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ABSTRACT

This study aims to (1) determine the status and position of male heirs who change religion based on Balinese customary law, and (2) find out the judge's considerations on the status and position of male heirs who change religion in the inheritance of Balinese customary law based on the Court's decision. Agung Number 1312 K/Pdt/1992. The type of research used by the researcher is normative legal research, namely through legislation approach, case approach, and conceptual approach. Sources of legal materials used are the 1945 Constitution, Awig-Awig Gerokgak Traditional Village, and legal decisions. The technique of collecting legal materials is by reviewing or analyzing legal decisions, namely the decisions of the Singaraja District Court, Denpasar High Court, and the Supreme Court of the Republic of Indonesia. The results of the study show that (1) normatively Balinese customary law, the status and position of male heirs who change religions are no longer entitled to receive inheritance rights because they are considered to have left their homes or "Nilar Kawitan" which is no longer possible to carry out the obligations of their parents. the heirs and their customary communities (2) the judge's decision in giving a decision on male heirs who change religion in the inheritance of Balinese customary law when reviewed in the Supreme Court's decision Number 1312 K/Pdt/1992, namely that the male heirs who change religion (Plaintiff) gets his rights as heirs of the testator. In the legal decision it is stated that the Awig-Awig of the Gerokgak Traditional Village is not retroactive, meaning that it does not bind the Plaintiff because the plaintiff changed his religion before the enactment of the village regulations or the Awig-Awig of the Gerokgak Traditional Village, so that when the Plaintiff changed his religion there was no provision prohibiting the Plaintiff.

Keywords: Position, Male Heirs Change Religion, Balinese Custom.