

Contextualization of Rights and Justice through Exceptions in the Counterclaim of Marital Property Lawsuit

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Abstract: *This study aims to explain the contextualization of rights and justice through exceptions in the counterclaim of marital property lawsuits in the Religious Court of Pinrang. The research method used is normative-legal qualitative research, with a document study to analyze Decision Number 703/Pdt.G/2021/PA Prg. Data analysis is conducted using legal enforcement theory and rights and justice theory. The research results indicate that maximizing exceptions in marital property lawsuits in the Religious Court of Pinrang ensures the protection of rights and justice for all parties involved in society. The context of responses, replies, and rejoinders during the examination of marital property cases is essential to respond to the claims and clarify disputes in society to safeguard the rights and justice of both the plaintiff and defendant. Exceptions in legal enforcement during the examination of cases allow the plaintiff and defendant to assess the validity of claims in the conventional lawsuit, while exceptions in the counterclaim provide an opportunity for the defendant to protect their rights and justice during the proceedings of marital property cases.*

Keywords: *Exceptions; Counterclaim; Marital Property; Religious Court*

Kontekstualisasi Hak dan Keadilan melalui Eksepsi dalam Gugatan Rekonvensi Perkara Harta Bersama

Abstrak: Kajian ini bertujuan untuk menjelaskan kontekstualisasi hak dan keadilan melalui eksepsi dalam gugatan rekonvensi perkara harta bersama di Pengadilan Agama Pinrang. Metode penelitian adalah kualitatif-hukum normatif dengan studi dokumen dalam menganalisis Putusan Nomor 703/Pdt.G/2021/PA Prg., sedangkan analisis data menggunakan teori penegakan hukum dan teori hak dan keadilan. Hasil penelitian menunjukkan bahwa maksimalisasi eksepsi dalam perkara harta bersama di Pengadilan Agama Pinrang memastikan perlindungan hak dan keadilan bagi semua pihak tanpa kecuali di masyarakat. Konteks dari jawab jawaban, replik, dan duplik dalam pemeriksaan perkara harta bersama penting untuk merespon gugatan dan memperjelas perselisihan di masyarakat dalam rangka menjaga hak dan keadilan bagi

penggugat dan tergugat. Eksepsi dalam penegakan hukum selama dalam pemeriksaan perkara bagi penggugat dan tergugat untuk menilai validitas tuntutan dalam gugatan konvensi, sementara eksepsi dalam gugatan rekonvensi memberikan peluang kepada tergugat untuk melindungi hak dan keadilan selama persidangan perkara harta bersama.

Kata Kunci: Eksepsi; Gugatan Rekonvensi; Harta Bersama; Pengadilan Agama

A. Introduction

The division of marital property often becomes a source of dispute in society, leading former husbands and wives to compete for their rights, both during the marriage and after divorce in the Religious Court. One party in society makes a strenuous effort to claim ownership of all assets acquired during the marriage. When disputes over marital property remain unresolved within the community, one party decides to bring the case to the Religious Court in hopes of receiving justice. As a result, in society, former spouses struggle vigorously to defend their rights, especially during the examination of marital property cases in the Religious Court.

In several situations in society, the case of marital property often becomes complex after a married couple officially divorces in the Religious Court. Decisions regarding the division of marital assets are based on the principle of fairness for both parties, the husband and the wife, so they can live peacefully and tranquility in society. However, in some situations, marriages can end in divorce due to various reasons for both husband and wife in the community. In divorce cases, the division of marital property becomes a very sensitive case, and joint ownership often becomes the reason for disputes between both parties, the husband and the wife, in the Religious Court.¹

Referring to post-divorce marital property disputes within the Religious Court system, they face various challenges in their resolution within society. This includes the marital property cases in the Pinrang Religious Court. Each dispute in these cases generates varying judgments from judges, especially regarding whether

¹Eriska Permatasari, "Pembagian Harta Gono-Gini setelah Perceraian," Hukumonline.Com, 14 Juli 2023, <https://www.hukumonline.com/klinik/a/harta-gono-gini-setelah-perceraian-cl6045>.

their decisions can create fairness in society. Therefore, it's crucial to resolve conflicts regarding the division of marital assets fairly and evenly. Marital property conflicts within society might require efficient resolution, particularly by involving the Religious Court system to ensure legal certainty and justice. Disputes concerning the division of marital assets in the Religious Court are complex and often become the primary focus of contention between both parties, aside from disputes regarding child custody rights. Swift and accurate legal handling of marital property disputes within society allows former spouses to achieve peace, especially in efforts to mend their relationship.²

A previous study, after conducting research, has found that in national studies, the resolution of marital property disputes in the District Court system focuses more on the aspect of proof to ensure the existence of shared assets within a marriage in society.³ It reveals a comparison between the laws governing the division of marital property in Islamic law and civil law.⁴ Marital property disputes in society are categorized as *syirkah*, primarily in the Compilation of Islamic Law (KHI).⁵ In addition, the study explores the resolution of inheritance in positive law and marital property disputes used as collateral for debts.⁶ The study emphasizes the regulations governing marital property in civil law as applied in Indonesia. It also delves into disputes over the ownership of intellectual property rights as marital property after

²P H Limbong, S A Siregar, and M Yasid, "Pengaturan Hukum dalam Pembagian Harta Bersama Perkawinan menurut Hukum Perdata yang Berlaku Saat Ini di Indonesia," *Jurnal Retentum*, 2022, <http://jurnal.darmaagung.ac.id/index.php/retentum/article/view/1346>.

³Astriani Van Bone, "Penyelesaian Sengketa Harta Bersama Berstatus Agunan Dalam Perkara Perceraian Di Pengadilan Negeri," *Lex Administratum* 5, no. 5 (2017): 80.

⁴Muhammad Tigas Pradoto, "Aspek Yuridis Pembagian Harta Bersama Dalam Perkawinan (Tinjauan Hukum Islam Dan Hukum Perdata)," *Jurnal Jurisprudence* 4, no. 2 (2017): 85.

⁵Jhon Kenedi, "Penyelesaian Sengketa Harta Bersama Dengan Harta Bawaan Ketika Terjadi Perceraian," *Manhaj: Jurnal Penelitian Dan Pengabdian Masyarakat* 7, no. 1 (2019): 92; Elfirda Ade Putri and Windy Sri Wahyuni, "Penyelesaian Sengketa Harta Bersama Setelah Perceraian Dalam Hukum Positif Di Indonesia," *Jurnal Mercatoria* 14, no. 2 (2021): 94; Abdul Kodir Alhamdani, "Ijtihad Hakim Terhadap Penyelesaian Sengketa Harta Bersama," *Jurnal At-Tatbiq: Jurnal Ahwal Al-Syakhsyiyah* 6, no. 1 (2021): 58; Bahrin Bahrin, Syahrizal Abbas, and Iman Jauhari, "Peranan Hakim Mediator Dalam Penyelesaian Sengketa Harta Bersama Pasca Perceraian Di Mahkamah Syar'iyah," *Syiah Kuala Law Journal* 2, no. 3 (2018): 371.

⁶I Gede Arya Agus Pratama, Ni Luh Mahendrawati, and Luh Putu Suryani, "Penyelesaian Sengketa Pembagian Harta Bersama Yang Dijadikan Jaminan Hutang Melalui Akta Perdamaian," *Jurnal Analogi Hukum* 2, no. 2 (2020): 165.

divorce, as well as the establishment of legal certainty regarding marital property for the first wife after polygamous marriages and mixed marriages in society.⁷

In international studies related to marital property disputes, it was also found that the allocation of shared assets after divorce can be considered based on factors such as the child's residence and the extent of their share of the marital property in society. However, this consideration does not follow the laws in Law No. 1 of 1974 and the Compilation of Islamic Law (KHI).⁸ Reviewing cases in countries like Nigeria and the United Kingdom, the application of family law is closely linked to achieving justice in family law, particularly the judicial approach in regulating marital property created through marital agreements.⁹ Comparing the application of family law in marital property disputes in the United Kingdom and Singapore,¹⁰ and the handling of marital property division disputes involving polygamy in Shariah courts in Malaysia.¹¹

Concerning all the studies on defendant exceptions in common property disputes at both the national and international levels, it has been found that there is still a gap in examining the strength of the cumulative responses in the examination of marital property disputes during court proceedings in the Religious Court.

⁷Irma Sylviyani Herdian, "Sengketa Kepemilikan Hak Kekayaan Intelektual Sebagai Harta Bersama Dalam Kasus Perceraian," *Aktualita: Jurnal Hukum*, 2020, 398; Willy Budianto and Rachmi Sulistyarini, "Kepastian Hukum Harta Bersama Bagi Istri Pertama Dalam Perkawinan Poligami," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 1 (2021): 66; D A Harimurti, "Perbandingan Pembagian Harta Bersama Menurut Hukum Positif Dan Hukum Islam," *Jurnal Gagasan Hukum*, 2021, <http://journal.unilak.ac.id/index.php/gh/article/view/8908>; I M A Dwisana and M Resen, "Pembuktian Harta Bersama Dalam Perceraian Perkawinan Campuran Tanpa Perjanjian Kawin Di Indonesia," *Acta Comitas: Jurnal Hukum...* (scholar.archive.org, 2021), <https://scholar.archive.org/work/ko2zddbrqremvcwbbaznbhb7lu/access/wayback/https://ojs.unud.ac.id/index.php/ActaComitas/article/download/72089/42138>.

⁸Hazar Kusmayanti and Bambang Daru Nugroho, "The Settlement of Disputes Regarding Division of Joint Property After a Divorce in The Central Aceh Regency," *Jurnal Ilmiah Islam Futura* 21, no. 2 (2021): 170.

⁹Oluwakemi Mary Adekile, "'With All My Worldly Possessions I Thee Wed': Nigerian Courts and the Exercise of Discretionary Justice in Property Ownership Disputes in Marriage and Divorce," *Commonwealth Law Bulletin* 46, no. 1 (2020): 3.

¹⁰Man Yip, "Comparing Family Property Disputes in English and Singapore Law: 'Context Is Everything,'" *Legal Studies* 41, no. 3 (2021): 474.

¹¹Noorul Huda Sahari and Najibah Mohd Zin, "Managing Disputes in the Division of Matrimonial Property Involving Polygamous Marriage in the Malaysian Shariah Courts," in *Regional Conference on Science, Technology and Social Sciences (RCSTSS 2014) Business and Social Sciences* (Springer, 2016), 865.

Therefore, the purpose of this study is to address this gap by exploring the following issues: how can exceptions be optimized in the examination of marital property cases in the Religious Court?; what is the urgency of the stages of the answer, *replik*, and *duplik* in marital property cases?, and how can the contextualization of rights and justice through exceptions in counterclaims in marital property cases be achieved in the Religious Court of Pinrang? This study aims to be one of the scholarly contributions to the resolution of marital property disputes following divorce in the Religious Court.

B. The Optimization of Exception in Marital Property Cases

The defendant's answer during the case examination includes exceptions as refusals or rebuttals related to the conditions or formalities during the case examination process in court. An exception occurs when the claim contains flaws in the formal requirements which cause the claim to be unclear and vague, and the claim cannot be accepted. An exception is an objection submitted by the defendant which includes a denial of the main substance of the case.

In principle, the answer is not the defendant's obligation to notify the judge during the case examination, but rather the right to refute the plaintiff's arguments stated in the case. The answer to the lawsuit can be interpreted as regulated in *Het Herziene Indonesisch Reglement* (HIR) Article 121 paragraph 2 is the summons of the defendant, in the same order of opinion, a copy of the complaint must be provided, notifying that, if the defendant can respond to the complaint with a letter.¹² The nature of the legal system is that it functions as rules, norms, and patterns of actual human behavior. In other words, the nature of the applicable laws and regulations creates the power to bind and serve as guidelines for law enforcement officials in resolving marital property disputes.

The defendant's answer through an exception is one of the stages in the civil case examination process after the plaintiff has read his lawsuit. The answer to the

¹²Elza Syarief, *Praktik Peradilan Perdata: Teknis Dan Kiat Menangani Perkara Di Pengadilan* (Jakarta: Sinar Grafika, 2021).

plaintiff's lawsuit is the defendant's attempt to defend his rights during the civil case examination. The lawsuit letter must be clear and follow the formal and material requirements stipulated in civil law.¹³

In general, in civil law procedures, the defendant has the opportunity to provide an exception to the claim submitted by the plaintiff, based on HIR Article 125 paragraph 2, Article 133, Article 134, and Article 136. An exception is an objection to the plaintiff's claim that is not related to the substance cases and formal requirements in lawsuits in the Religious Courts. The exception aims to refute the claim so that it cannot be accepted or *Niet Ontvankelijk* (NO).¹⁴

When the party as defendant has the right to submit an exception in response to the plaintiff's claim during the case examination process at the Religious Court. Exceptions can contain denials or reasons that are not directly related to the lawsuit. An exception is to raise questions about the validity of the claim filed by the plaintiff. The exception process in civil cases is considered significant for the party subject to the lawsuit in the case examination process after the plaintiff has read out the lawsuit.¹⁵ Through an exception, the party subject to the lawsuit has the opportunity to respond and express doubts whether the contents of the lawsuit are unclear or ambiguous.

The defendant's response typically follows the plaintiff's presentation. The defendant's response can only proceed if the judge's mediation efforts are not successful, allowing the case to continue in court with the submission of the defendant's response. The defendant's response consists of several elements, namely indirect feedback on the core of the dispute known as exceptions or objections.

¹³Ery Agus Priyono, Herni Widanarti, and Dharu Triasih, "Arti Penting Jawaban Atas Gugatan Sebagai Upaya Mempertahankan Hak-Hak Tergugat," *Law, Development and Justice Review* 2, no. 1 (2019): 1–7.

¹⁴Muhammad Faisal, Fajar Fadly, and Anwar Sulaiman Nasution, "Pentingnya Melakukan Eksepsi Terhadap Surat Gugatan Dalam Perkara Perdata Di Persidangan Pengadilan Negeri Padangsidimpuan," *Jurnal Ilmiah Muqaddimah: Jurnal Ilmu Sosial, Politik Dan Humaniora* 7, no. 1 (2023): 126.

¹⁵Marjo Marjo, "Mengkritisi Eksepsi Tidak Berkuasanya Hakim Dalam Pemeriksaan Perkara Perdata Di Pengadilan Negeri," *Masalah-Masalah Hukum* 39, no. 2 (2010): 135.

Therefore, responses related to the core of the dispute are answers that can pertain to acknowledgments and objections.¹⁶

The rejection or objections presented by the defendant against the content of the lawsuit are not mandatory to be submitted at the beginning of the case examination. On the contrary, they can be presented during the case examination, even at the appellate level, as long as it does not contradict the responses given during the initial examination. If the judge decides to accept these objections, the case will be automatically terminated through a decision at the first level, meaning that the plaintiff's claims will not be accepted. Conversely, if the exceptions are not accepted, the judge is entitled to proceed with the lawsuit in the case examination process.

In a marital property case examination at the Religious Court, the defendant has the authority to submit exceptions as a response to the plaintiff's lawsuit for specific reasons. There are several aspects to consider when applying exceptions in the process of examining joint property cases in the Religious Court. The defendant must present all exceptions together with their response to the core of the case. If the initial response includes exceptions without a response to the core of the case, the defendant will forfeit their right to respond to the essence of the case.¹⁷

Several types of exceptions can be applied by the defendant in joint property cases. One of them is providing evidence that the property that is the object of the dispute is not joint so that division between the two parties is not necessary. The defendant can reject the plaintiff's lawsuit based on certain reasons, such as the judge's invalidity or the existence of a previous decision in the case. There is also the option to reject the plaintiff's claim with the argument that the claim submitted does not comply with applicable legal regulations. In addition, the defendant can also

¹⁶H. A. Djazim Ma'shum and Ali Hurozim, "Penyelesaian Sengketa Hibah Tanah Di Pengadilan Agama Kraksaan: (Studi Di Pengadilan Agama Kraksaan Perkara Nomor: 2308/Pdt. G/2016/Pa. Krs)," *JUSTNESS: Jurnal Hukum Politik dan Agama* 2, no. 1 (2022): 1.

¹⁷Zedi Muttaqin and Siti Urwatul Usqak, "Proses Penyelesaian Sengketa Pembagian Kasus Harta Gono Gini Akibat Perceraian Pasangan Suami Istri Di Pengadilan Agama Mataram," *Civicus: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila Dan Kewarganegaraan* 8, no. 2 (2020): 128.

reject the plaintiff's claim on the basis that the plaintiff does not have the right to file the lawsuit.

The exception process focuses on the formal requirements for the letter of claim in the context of joint property cases in the Religious Courts. When a joint property lawsuit contains formal errors, the lawsuit is considered invalid. In general, judges at the Religious Courts apply two types of exception processes, namely exceptions related to procedural law, called *processuil* exceptions, and exceptions based on material law. Process exceptions include *declination* exceptions which attempt to avoid the case as well as *disqualification* exceptions which refer to plaintiffs who are deemed not to have the right to file a lawsuit. Material exceptions include *dilator* exceptions which delay the case and *prempatoir* exceptions which directly concern the substance of the case.¹⁸

There are two categories of exceptions that apply in the Religious Courts, namely exceptions related to the court's competence and exceptions outside the court's competence. Exceptions related to court competence and exceptions that are not related to the court, both have several variations that are known in the theory and practice of civil procedural law. Therefore, from the various types of exceptions, two types of exceptions that are often used by defendants in trials can be explained, namely the *obscuur libel* exception and the *error in persona* exception.

Error in objecto exception is related to errors in filing a lawsuit or claim against the object that is being debated or disputed. In the judicial context, *error in objecto* exception occurs when a lawsuit or accusation is wrong regarding the object that is the basis of the problem. The exception of *error in persona* covers various situations related to the error of the individual filing the lawsuit. This error can mean that the plaintiff does not have the authority or right to file a lawsuit or application, incorrectly identifies the party being sued or requested, or even makes a mistake

¹⁸Andi Sudasri Anugrah, Syahrudin Nawi, and Sri Lestari Poernomo, "Penyelesaian Sengketa Harta Bersama Terhadap Putusan Banding Nomor 08/Pdt. G/2017 Atas Perkara Putusan Pertama No. 267/Pdt/G/2016/PA.Wsp," *Journal of Lex Generalis (JLG)* 2, no. 11 (2021): 2698.

involving many parties.¹⁹ In other words, an error in persona exception is an incorrect identification of a particular individual. In a judicial context, an error in persona can be defined as an error in identifying the person who is presented as a defendant in a lawsuit.

Therefore, various types of exceptions in examining joint property cases at the Religious Courts need to be optimized by the defendant to ensure victory in the trial. The defendant needs to ensure that the type of exception submitted is under the provisions of civil procedural law recognized in the Religious Courts, such as absolute competency exceptions, relative competency exceptions, individual exceptions, procedural exceptions, and material exceptions. When responding to the plaintiff's letter of claim in the first trial after the failure of mediation facilitated by the Religious Court at the first instance, the defendant must submit an exception at the right time. The defendant needs to ensure that the exception submitted is based on a strong legal basis and is relevant to the facts of the case at hand. Defendants must also prepare the necessary evidence to support the proposed exception, and they should consult with a lawyer or legal expert to obtain appropriate advice and guidance in the process of filing the exception.

C. The Urgency of the Answering, *Replik*, and *Duplik* Stages in Marital Property Cases

Article 132 in the HIR explains that a counterclaim is a legal action initiated by the defendant in response to the plaintiff's original lawsuit during the lawsuit examination process. Someone who initially acts as the plaintiff in the original lawsuit can then become the defendant in the counterclaim, while the defendant in the original lawsuit can also act as the plaintiff in the counterclaim. The purpose of the counterclaim is to streamline the legal procedure because the original lawsuit and counterclaim are examined and decided together in a single process and governed by

¹⁹Aditya Septian and Husni Syawali, "Eksepsi Error In Persona Yang Dilakukan PT. Mega Trans Holiday Terhadap PT. Toyota Astra Finance Akibat Dari Wanprestasi," in *Bandung Conference Series: Law Studies*, vol. 2, 2022, 579.

a single judgment. Furthermore, this approach can save time and costs for the parties involved in the case and prevent the possibility of conflicting decisions.

Essentially, in civil procedure law, there is no requirement that the claims of the conventional plaintiff and the counterclaimant must be closely related. A counterclaim can stand independently or *zelfstandig*, and the defendant can submit it to the judge as a separate process. However, in practice, it is often associated with the condition that the basis of the counterclaim should have a connection with the conventional claim. This is done to ensure that the objectives of the counterclaim are effectively realized, so there should be as much connectivity as possible between the two so that they can be resolved concurrently.

A counterclaim is submitted concurrently with the defendant's response, whether in written or oral form. If the exchange of pleadings between the plaintiff and defendant has concluded and the proceedings have moved on to the stage of presenting evidence, the defendant is not allowed to file a counterclaim.²⁰ Furthermore, according to Article 132a, paragraph 2 of the HIR, it is stipulated that if a counterclaim is not raised during the first instance of the trial, it cannot be raised at the appellate level.²¹

The stage of examining a case through the common question-and-answer proceedings, often referred to as *replik*, *duplik*, and conclusion, can create legal implications from new developments initiated by the defendant, starting from exceptions to counterclaims. *Replik* is the plaintiff's response to the defendant's answer. *Duplik* is the defendant's response to the plaintiff's *replik*, which essentially refutes the plaintiff's arguments in the *replik* and reinforces the defendant's arguments in their response. Conclusion represents the conclusions drawn by each party after the question-and-answer process and presentation of evidence, ultimately leading to a final resolution.

²⁰Vishakha Choudhary, "Preventing Frivolous Counterclaims in Investor-State Arbitration: Need for Summary Dismissal Procedures," in *European Yearbook of International Economic Law 2021* (Springer, 2022), 122.

²¹Paul E Trinel, "Counterclaims and Legitimacy in Investment Treaty Arbitration," *Arbitration International* 38, no. 1–2 (2022): 59.

Replik comes from two words, namely *re* returned and *plik* answered from *replik*, meaning to return an answer as a reply to the defendant's answer in a civil case. *Replik* must be adjusted to the quality and quantity of the defendant's answer. Therefore, a *replik* is the plaintiff's response to the answer submitted by the defendant and does not rule out the possibility of opening up opportunities for the management to submit a replica. The plaintiff's reply may contain justification for the defendant's answer or maybe the plaintiff's opinion statement with clarify the arguments put forward by the plaintiff in his lawsuit. A replica is the plaintiff's answer, either written or verbal, to the defendant's answer or lawsuit, a technique put forward by the plaintiff to confirm the lawsuit by refuting the reasons for rejection that the defendant then puts forward in his answer. Can be a continuation of a civil case examination in district court after the defendant files an answer.

After the defendant provides their response, the plaintiff is changed to respond following their perspective. During this stage, the plaintiff may choose to maintain their claim and add any necessary details to clarify their arguments. The *duplik* is the defendant's response to the *replik* submitted by the plaintiff. In their *duplik*, the defendant may either affirm the plaintiff's arguments from the *replik* or introduce new arguments to reinforce their objections. This back-and-forth, known as the *replik* and *duplik*, can continue until a point of agreement is reached between the parties or can be summarized as a point of agreement between the plaintiff and the defendant.

If the exchange of pleadings between the plaintiff and the defendant is sufficient, then the legal case being examined becomes clear in the assessment phase, the next step is the presentation of evidence. After the plaintiff submits their replication, the defendant is changed to respond as well. In this stage, the defendant starts to act like a plaintiff. Subsequently, the replication and rejoinder process can be repeated until there is a point of agreement between the plaintiff and the defendant, which is considered adequate by the judge. However, if the exchange of pleadings is deemed sufficient, but there are still unresolved issues between the plaintiff and the defendant that require proof, it can proceed to the evidence stage.

Both the plaintiff and the defendant can jointly create conclusions or are given the opportunity by the judge to present conclusions to the panel of judges during the trial simultaneously. Regarding the format and content, conclusions are typically submitted to each party in the case. The judge merely provides the parties with an opportunity, and even this is not mandatory. In other words, each party is allowed to formulate their conclusion and submit it to the judge, but generally, each party submits a conclusion when a decision is being made. Conclusions must be detailed and transparent, focusing on the legal facts presented during the trial, especially those that benefit the respective parties.

D. The Contextualization of Right and Justice of Marital Property through Excipitoin in a Counterclaim Lawsuit

The Religion Court of Pinrang, acting as the first-level court, has issued a final decision in a joint property lawsuit involving the former husband as the plaintiff suing the former wife as the defendant in the Bugis community. The legal process began with the acceptance and examination of the plaintiff's lawsuit letter, which was received by the Chief Judge of the Religion Court of Pinrang on September 13, 2021. The lawsuit letter was then registered with the Registrar's Office of the Religion Court of Pinrang under Number 703/Pdt.G/2021/PA.Prg on September 16, 2021, both of whom come from the Bugis community in Pinrang, South Sulawesi. The subject matter of the lawsuit letter reveals that initially, the plaintiff and the defendant as Bugis community were a married couple who got married on October 30, 1989, at the Office of Religious Affairs of Watang Sawitto Subdistrict, Pinrang Regency, with a marriage certificate. However, their marriage ended in divorce on September 18, 2019, and the divorce judgment was issued by the Religion Court of Pinrang with case number 703/Pdt.G/2021/PA.Prg.

Based on Lawsuit Letter Number 703/Pdt.G/2021/PA.Prg, it can be emphasized to facilitate an understanding of the positions of each party, with the former husband acting as the plaintiff in the conventional claim or the defendant in the counterclaim, while the former wife assumes the role of the defendant in the

conventional claim or the plaintiff in the counterclaim. The joint property case is essential to be clarified from the beginning to avoid ambiguous readings and understandings of the judge's decision at the Religion Court of Pinrang. Complexity arises in comprehending the verdict, particularly during the case examination stage, where the stages of the plaintiff's response, replication, and counter-replication involve not only one instance of raising exceptions but exceptions are raised multiple times and continually evolve as both the plaintiff and defendant take turns doing so.

Therefore, during the marriage between the plaintiff and the defendant, there was a joint property that became the object of dispute, including immovable property such as land measuring approximately 40x35 meters and a rental house located in Ammassangang, Paletean Subdistrict, Pinrang Regency. Land measuring approximately 25x30 meters located in Ammassangang, Paletean Subdistrict, Pinrang Regency, land measuring approximately 20x30 meters, and a permanent house located in Pallabbassi, Tassokkoe Neighborhood, Salo Village, Watassawitto Subdistrict, in Bugis community in Pinrang Regency, all registered in the name of the plaintiff's former wife. Land measuring 105 square meters with a residential building located in Pondok Madinah Complex, Tamalanrea Indah Village, Makassar, based on Certificate of Ownership Number 23417. Plantation land measuring approximately 1.7 hectares is located in Tanete Bojo, Aralle Village, Aralle Subdistrict, Mamasa Regency. This property is registered in the name of the plaintiff's former wife. Land for plantation and rice fields measuring approximately 950 square meters is located in Sisio, Aralle Village, Aralle Subdistrict, Mamasa Regency. Land measuring 10x15 meters with a mineral water depot business building located in Salu Ledo, South Aralle Village, Aralle Subdistrict, Mamasa Regency. All the aforementioned land is registered in the name of the plaintiff's former wife, except for land measuring approximately 160 square meters located on H. Hapati Hasan Street, Mamuju Regency, West Sulawesi Province, registered in the name of Febby Rezki Syafitri. Meanwhile, movable joint property at the center of the dispute includes 1 (one) unit of a White 2015 Terios car with license plate number DD 1303 RJ, 1 (one) unit of a 2017 4-wheel truck with license plate number DP 8291 IB, 3 (three) units of Honda

motorcycles, and approximately 200 grams of gold necklaces and bracelets currently in the possession of the defendant.

The context of the jointly disputed property, from the time of divorce to the filing of the lawsuit, remains under the control of the defendant. The plaintiff has attempted to approach the defendant in a familial manner to reach an amicable agreement regarding the division of the jointly owned property, but these efforts were unsuccessful as the defendant declined. Therefore, with the impossibility of resolving the dispute amicably after the divorce, the plaintiff proceeded to file a lawsuit with the Religion Court of Pinrang. Due to the defendant's refusal to settle the dispute amicably, the plaintiff is estimated to incur significant losses. The plaintiff urgently requires a portion of the jointly disputed property to meet several outstanding financial obligations. This is to prevent the transfer of the land and building to any other parties. The plaintiff has submitted a request to the Chief Judge or the Panel of Judges of the Religion Court of Pinrang to place a lien on the land and building through a ruling that grants the plaintiff's lawsuit in its entirety.

Furthermore, in response to the lawsuit filed by the plaintiff, the defendant has presented a written response during the proceedings. Substantially, the defendant raised exceptions by disputing most of the claims found in the plaintiff's lawsuit, except for some immovable jointly owned properties acknowledged by the defendant in the response to the lawsuit. The defendant contends that the lawsuit brought by the plaintiff in the conventional claim does not meet the formal requirements as it lacks a clear legal basis. The defendant argues that the plaintiff's lawsuit tends to be vague or obscure libel, resulting in ambiguity regarding the subject matter of the lawsuit, such as the land measuring approximately 40x35 meters and the rental house in Ammassangang, Paletean Subdistrict, Pinrang Regency; the land measuring approximately 25x30 meters located in Ammassangang, Paletean Subdistrict, Pinrang Regency; the land measuring approximately 20x30 meters and the permanent house in Pallabbassi, Tassokkoe Neighborhood, Salo Village, Watassawitto Subdistrict, Pinrang Regency; and the land measuring approximately 15x20 meters located in Pallabbassi Tassokoe, Salo Village, Watassawitto

Subdistrict, Pinrang Regency. The defendant asserts that the lawsuit is inaccurate and inappropriate because it does not specify the owner of the subject matter of the lawsuit.²²

The disputed objects include land measuring approximately 10x20 meters with a warehouse located in Pallabbassi, Tassokkoe Neighborhood, Salo Village, Watassawitto Subdistrict, Pinrang Regency; land measuring approximately 15x20 meters with a Swiftlet Nest building located in Tassokkoe, Salo Village, Watassawitto Subdistrict, Pinrang Regency; and land measuring 105 square meters with a residential building located in the Pondok Madinah Complex, Tamalanrea Indah Village, Makassar. The defendant states that the claims concerning other disputed objects, such as the plantation land measuring approximately 1.7 hectares located in Tanete Bojo, Aralle Village, Aralle Subdistrict, Mamasa Regency, are inaccurate because the land has been divided into three parts. Therefore, the defendant argues that the plaintiff's lawsuit is vague and unclear. The defendant also claims that the plantation and rice field land in Sisio, Aralle Village, Aralle Subdistrict, Mamasa Regency, measuring approximately 950 square meters, is controlled by the plaintiff. Additionally, the land measuring 10 x 15 meters with a mineral water depot business building located in Salu Ledo, South Aralle Village, Aralle Subdistrict, Mamasa Regency, is land and a building that was purchased and owned by the defendant after the divorce, making this subject matter not part of the jointly owned property.²³

In the process of submitting exceptions in the aforementioned ruling, the plaintiff in the conventional claim or the defendant in the counterclaim (former husband) maintained the arguments and reasons presented when responding and providing subsequent replies in replication and counter-replication. Meanwhile, the plaintiff in the conventional claim or the defendant in the counterclaim (former wife) submitted exceptions by rejecting all the arguments presented by the plaintiff in the conventional claim, except when the plaintiff in the conventional claim or the

²²Pengadilan Agama Pinrang, "Putusan Nomor:703/Pdt.G/2021/PA Prg," 2021.

²³Pengadilan Agama Pinrang, "Putusan Nomor:703/Pdt.G/2021/PA Prg," 2021.

defendant in the counterclaim (former husband) explicitly acknowledged their validity, as long as such acknowledgment did not harm the interests of the plaintiff in the conventional claim or the defendant in the counterclaim (former wife). Therefore, in summary, the ruling, which went through a lengthy process during the stages of case examination, especially during the back-and-forth responses, replication, and counter-replication, shows that the plaintiff in the conventional claim or the defendant in the counterclaim submitted exceptions multiple times as objections or denials to every disputed object considered incorrect or unclear in the lawsuit by the plaintiff in the conventional claim. Conversely, the plaintiff in the conventional claim or the defendant in the counterclaim also submitted exceptions multiple times as objections to each disputed object against the defendant in the conventional claim.

The panel of judges examining the joint property case continued to grant the rights of exception to both the plaintiff in the conventional claim and the defendant in the counterclaim. The filing of the conventional lawsuit by the plaintiff and the counterclaim or counter-lawsuit by the defendant persisted, based on each disputed object being considered as jointly owned property. The panel of judges, in their pursuit of justice during the examination of the joint property case in the trial, systematically reviewed each disputed object that was considered incorrect or unclear.

In consecutive order, in Decision Number 703/Pdt.G/2021/PA Prg in the first stage, it is indicated that the judges accepted the defendant's exceptions in their entirety and, in substance, rejected the plaintiff's lawsuit in its entirety, thereby granting the defendant's counterclaim in its entirety by declaring that the jointly owned property not included in the conventional claim. The jointly disputed property as the subject of the dispute includes a piece of cocoa plantation land, a fish pond, a piece of land with a stilt house, paddy fields, an orchard, and a piece of agricultural land. In the second stage of the examination of the joint property case, unfortunately, the decision states that the counterclaim is reasonable to be declared rejected or at the very least declared as not admissible or *Niet Ontvankelijke Verklaard*.

In the second stage, after a decision has been made in the examination of the case in the first stage, the examination of other jointly disputed property objects is continued. In the conventional claim, it is stated that the defendant's exceptions are entirely rejected, and thus, in substance, the plaintiff's lawsuit is granted in its entirety, and the defendant is ordered to pay all legal costs. Furthermore, in the counterclaim, it is stated that the exceptions of the plaintiff in the conventional claim or the defendant in the counterclaim are entirely granted. In substance, the counterclaim filed by the plaintiff in the conventional claim is entirely rejected. Referring to the evidence presented by the plaintiff in the counterclaim during the trial, it is revealed that the legal facts regarding the objects of the plaintiff's counterclaim cannot be clearly and specifically identified (unclear). This context includes ambiguity as to whether these objects are jointly owned property or separate property within the context of the marriage between the plaintiff in the counterclaim or the defendant in the conventional claim (former wife) and the defendant in the counterclaim or the plaintiff in the conventional claim (former husband). The plaintiff's counterclaim requests that the panel of judges declare the entire counterclaim inadmissible or *Niet Ontvankelijke Verklaard*.

The context of using exceptions in the joint property lawsuit is an essential element that plays a significant role in illustrating the integrated rights and justice in the legal process for joint property cases. The conventional claim is a reflection of an individual's or legal entity's efforts to protect their rights that are deemed to have been violated by another party, especially in joint property cases. The repeated application of exceptions by the parties facing the claims is essential in safeguarding and defending their rights and interests in joint property.

Exceptions in joint property lawsuits are used to explain the reasons why the claims filed by the plaintiff are unreasonable or detrimental to the rights of the defendant, thus ensuring justice for the defendant. In the process of conventional claims, the use of exceptions provides an opportunity for the defendant to thoroughly examine the claims made by the plaintiff. This examination includes assessing whether the claims meet legal requirements and are relevant to the relevant facts.

This practice ensures that rights and justice are upheld through a transparent and meticulous legal process in joint property cases.

Exceptions play a role in maintaining a balance between rights and justice in the legal process for joint property cases. While the plaintiff has the right to file a lawsuit, the defendant also has the right to defend themselves and assert that the lawsuit is unfair or lacks a strong legal basis. The court will then consider arguments from both sides to reach a decision based on justice in joint property case rulings. The use of exceptions also plays a role in preventing the misuse of the law in joint property cases. If the plaintiff files a claim that lacks a strong legal basis or is questionable, the defendant can use exceptions to highlight these issues.

Thus, exceptions help ensure rights and justice by preventing the abuse of the legal process. Additionally, the use of exceptions in conventional claims creates a more transparent and open judicial process for resolving joint property cases. The parties involved have the opportunity to present their arguments and evidence, which will be considered by the court, ultimately aiming to support rights and justice by ensuring that each party has an equal opportunity to express their views and arguments.

On the other hand, the utilization of exceptions in counterclaims is a crucial element that reflects efforts to ensure the implementation of rights and justice in the legal process. Exceptions are a tool used by parties involved in a legal case to challenge or respond to claims or demands made by other parties. The use of exceptions can be an essential instrument to understand and implement the principles of rights and justice within the framework of counterclaims.

The principles of rights and justice are fundamental foundations in the legal system aimed at guaranteeing equal access to justice and appropriate treatment in the legal process for all individuals, including joint property cases. Ensuring the proper conduct of the legal process in joint property cases is a key element in achieving justice, and exceptions are one of the tools used to achieve this goal. In the context of counterclaims, the party receiving the lawsuit, for example, the defendant in the initial lawsuit, has the right to file exceptions in response to the

joint property lawsuit filed by the counterclaim plaintiff. The purpose of using exceptions in counterclaims is to defend oneself, reveal errors in the lawsuit filed by the conventional plaintiff, or raise objections to the arguments or evidence presented by the counterclaim plaintiff.

The application of exceptions in counterclaims helps obtain a more detailed understanding of whether the counterclaim filed by the counterclaim plaintiff has a strong legal basis or whether the claim's legitimacy is questionable. Exceptions contribute to the preservation of rights and justice by giving the parties involved the opportunity to provide detailed evidence or challenge the lawsuit. The role of the court in ensuring that the process of filing exceptions and handling counterclaims proceeds diligently and fairly is of utmost importance. Rights and justice are upheld by ensuring that every party has the right to present their arguments and provide relevant evidence to reach a decision based on the principles of justice.

E. Conclusion

A significant finding in this study is that the optimization of exceptions from the response, replication, and rejoinder stages in the examination of joint property cases can ensure the protection of rights, and justice, and provide an opportunity for all parties involved to present reasons and evidence, respond to claims, and clarify disputes, ultimately leading to rights and justice in the judgments of the Religious Court. In the context of disputed joint property, the plaintiff attempted a peaceful settlement, which was unsuccessful, leading to the filing of a lawsuit in the Religious Court of Pinrang. However, the defendant, in response to the plaintiff's lawsuit, raised exceptions to challenge the claims in the plaintiff's lawsuit, citing the lack of formal qualifications and unclear objects of the lawsuit. As a result, tension and disagreement arose between the two parties regarding the joint property in dispute in the Religious Court of Pinrang. This study still has limitations in the application of exceptions in counterclaims, so it is recommended that in further research, the context of rights and justice can be explored in empirical studies, especially in proving the judges' reasoning directly in joint property cases in the Religious Court.

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