

JURIDICAL REVIEW OF PRENUPTIAL AGREEMENTS

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Abstract

A prenuptial agreement or commonly referred to as a prenuptial agreement is a contract or agreement that is equally agreed upon by a married couple, either before the marriage takes place, or during the marriage bond. In conducting research to be more focused, the author made a formulation of the problem, namely how is the legal provisions of the prenuptial agreement based on Law Number 16 of 2019, how is Amendments to Law Number 1 of 1974 concerning Marriage in Indonesia and the Legal Effects on Marital Property with the Prenuptial Agreement in Indonesia. The type of research used in this writing is normative legal research. Normative research is carried out by collecting data and information about the legal norms you want to research, then analyzing the data and information to get a deeper understanding of existing legal norms. Normative research methods can be carried out by means of literature studies, namely by collecting library materials or legal sources relevant to the research topic. The results showed that the forms of this marriage agreement include marriage agreements with togetherness of profit and loss, marriage agreements with togetherness of results and elimination of togetherness of wealth. The content of the agreement must be discussed carefully. You must ensure that you and your partner agree on the content of the agreement and are consistent with your values. For example, how joint property will be managed and divided if one day you divorce.

Keywords: Juridical Review, Prenuptial Agreement, Marriage Law

INTRODUCTION

In general, what is meant by marriage is the inner birth 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 divinity of the Almighty.

Based on Law Number 16 of 2019 change before of Law Number 1 of 1974 Against Marriage, what is meant by marriage is the inner birth 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 Almighty Godhead (article 1).

Marriage is a necessity of life for all mankind, from ancient times until now, because marriage is an important matter for friends to discuss inside and outside the rule of law. From marriage will arise a legal relationship between husband and wife and then the birth of children, give rise to a legal relationship between children and their parents, and give rise to a legal relationship between them and the property.

The principles or principles of a marriage according to Law Nomor 16 of 2019 are against marriage, namely:

1. The purpose of marriage is to form a happy and eternal family, for that husband and wife need to complement and help each other so that each can develop their personality, help and achieve spiritual and material well-being.
2. A marriage is valid if according to the laws of each religion and belief, in addition each marriage must be in accordance with applicable laws and regulations. The recording of each marriage is the same as the recording of events in a person's life such as birth, death stated in the deed which is also contained in the recording list.
3. This law adheres to the principle of monogamy only if desired by the person concerned because the law and religion permit, then a husband can have more than one wife, even though it is what the person concerned wants can be done if certain conditions are met and decided by the court.
4. This law adheres to the principle that the prospective husband and wife must have matured their bodies to be able to realize the goal of getting better and healthier offspring, for that it must be prevented from underage marriage
5. Since the purpose of marriage is to form a happy, eternal and prosperous family, it adheres to the principle of making divorce difficult. To allow divorce there must be certain reasons and must be done before the court,
6. The rights and position of the wife are balanced with the rights and position of the husband both in the family (household) and in society, so that everything in the family can be negotiated and decided jointly by the husband and wife.

In Law Number 16 of 2019 concerning Marriage, the marriage agreement is only briefly regulated in one article, namely Article 29. The article only stipulates:

1. The marriage agreement can be made at or before the marriage takes place.
2. The marriage agreement must be in writing, notarized by the Marriage Registrar.
3. The covenant must not violate the boundaries of law, religion, and decency.
4. The marriage agreement applies to a third party after the agreement is ratified by the Marriage Registrar. It has been in effect against both parties since the marriage took place.
5. During the marriage, the agreement cannot be changed, unless there is agreement from both parties.

RESEARCH METHOD

Legal Certainty Theory

Based on this description, it can be said that legal certainty consists of 2 (two) types, namely:

1. Certainty created in legal norms (law in the books) is certainty based on the clarity of regulation in its articles or the existence of regulatory order or called normative certainty; and
2. Certainty formed because of law is actions carried out based on law (law in action) is a condition in the form of actions that must occur as a reaction and realization or follow-up of a provision in legal regulations or called empirical certainty.

Legal certainty is needed to provide protection to consumers which is strengthened through legal norms in the Consumer Protection Law and gives hope that business actors do not commit arbitrary acts that can harm consumers. In addition, legal certainty is also needed to empower consumers in order to obtain and make choices for their goods and / or services needs and defend and defend their rights if harmed by the behavior of business actors as providers of consumer needs.

Therefore, legal experts complete the shortcomings of the definition of the agreement Article 1313 of the Civil Code by interpreting it differently. The following is conveyed the definition of the agreement in the opinion of several legal experts:

- a. "According to Rutten, an agreement is a legal act to achieve conformity of will with the aim of giving rise to certain legal consequences."
- b. "According to Subject, a covenant is an event where one person promises to another or where two people promise each other to do something."
- c. "According to Tirtodiningrat, an agreement is a legal act based on an agreement between two or more people to cause legal consequences that can be imposed by law."

Covenant Principles

An agreement must comply with the principles applicable in the Civil Code. These principles form the basis of the will of the parties to achieve the goal. 5 (five) important principles known in covenant making include: "

- a. The principle of freedom of contract

The principle of freedom of contract can be analyzed from the provisions of Article 1338 paragraph (1) of the Civil Code which reads "An agreement made validly applies as law to those who make it." This principle is a principle that gives freedom to the parties to:

- 1) Make or not make agreements;
- 2) Entering into agreements with anyone;
- 3) Determine the content of the agreement, its execution and terms; and
- 4) Determine the form of the agreement whether written or oral.

- b. The principle of consensualism

The term consensualism comes from Latin, namely consensus which means to agree. The principle of consensualism can be summed up in Article 1320 paragraph (1) of the Civil Code which contains provisions that: "For the validity of a treaty four conditions are required, one of which is the agreement of those who bind themselves."

- c. The binding principle of the covenant (*pacta sunt servanda*)

The principle of *pacta sunt servanda* can be summed up in Article 1338 paragraph (1) of the Civil Code which reads "An agreement validly made shall apply as law to those who make it." This principle relates to the effect of the agreement that the judge or third party must respect the substance of the agreement made by the parties as befits a law. They should not intervene in the substance of the agreement made by the parties.

- d. The principle of good faith

This principle is very important because even though the agreement has been signed, the implementation of the agreement must be difficult to carry out if this good faith does not exist. Asas good faith is theoretically divided into 2 (two) of them:"

- 1) Subjective good faith, that is, before the agreement is executed the parties must show honesty; and
- 2) Good faith is objective, that is, at the time of execution of the agreement must be in accordance with propriety and fairness.

- e. Personality principles (personality)

The principle of personality is the principle that determines that a person will do and make covenants only for the benefit of the individual. This can be seen in Article 1315 of the Civil Code which reads "In general, a person cannot enter into an engagement or agreement other than for himself." The provision confirms that a person enters into an agreement is only for his own sake. However, this provision has exceptions as stipulated in Article 1317 of the Civil Code which reads:

"It may also be an agreement entered into for the benefit of a third party, if an agreement made for oneself, or a gift to another, contains such a condition."

This article constructs that a person can enter into an agreement for the benefit of a third party on a specified condition, whereas Article 1318 of the Civil Code does not only regulate the agreement for himself, but for the benefit of his heirs and the people who obtain rights from him.

Terms of Validity of the Agreement

The agreement made by the parties must meet the conditions of validity of the agreement as stipulated in Article 1320 of the Civil Code which applies to all forms and types of agreements. These conditions include:

- a. Agree those who bind themselves;
- b. The ability to make an engagement;
- c. A certain thing; and
- d. A lawful cause.

Making an agreement that meets the four conditions above makes the agreement valid as law for the parties who make it. The four conditions are stated as follows:

a. Agree those who bind themselves

This first condition is regulated in Article 1320 paragraph (1) of the Civil Code. The word agreement means the conformity of the statement of will between one or more people and another party. What is meant is his statement because the will cannot be seen or known by others. "The agreement of the parties is expressed with firm acceptance by both parties either through words, deeds or documents." Article 1321 of the Civil Code specifies that an agreement does not occur if the agreement was given by mistake or obtained by force and fraud.

b. Ability to make a covenant

Proficiency is the ability to perform actions that will lead to legal consequences. The people who will enter into the agreement must be persons who are capable and have the authority to do legal acts. A person who is capable and authorized to perform legal acts is an adult person.

The measure of maturity is 21 years old and/or married so that people who are not authorized to perform legal acts are:

- 1) Underage persons (immature);
- 2) The person placed under the custody; and
- 3) Waaita is married (wife).

c. A certain thing

An agreement must have an object, namely a thing, goods, or objects that can be traded as stated in Article 1332 of the Civil Code that: "Only tradable goods can be the subject matter of an agreement." Then Article 1334 paragraph (1) of the Civil Code states that: "New goods that will exist in the future can also be the subject of an agreement."

d. A lawful cause

Because what is lawful according to law is not something that encourages and motivates the parties to enter into an agreement, but the provisions stipulated in the agreement and promised to be implemented must not contain elements that are contrary to the law, decency, and public order that apply in the association of people's lives.

These conditions must absolutely be met by the parties making the agreement. The consequences of non-fulfillment of one or more of the conditions for the validity of the agreement are:"

a. Revocable (vernietigbaar, voidable)

A new agreement is considered invalid if the agreement is canceled by the interested party if the subjective conditions in Article 1320 of the Civil Code are not fulfilled, namely the terms of the agreement and the conditions of ability to act.

b. Null and void (nietig, null and void)

The agreement is considered invalid and is considered to have never existed if the objective conditions in Article 1320 of the Civil Code are not fulfilled, namely certain conditions and halal cause conditions.

Elements of the Agreement

A valid agreement contains 3 (three) main elements in it. These elements include:"

a. Element esensialia

Essential law is an element that must be present in an agreement because without agreement about this element there is no agreement. The agreement is considered null and void because nothing in particular is promised.

b. Element naturalia

The element of naturalia is an element that has been regulated in law. If it is not regulated by the parties to the agreement, the law will govern it. Thus, this element is an element that is always considered to exist and is tacitly inherent in the covenant.

c. Element aksidentalialia

The element of axdentalia is an element that will exist or bind the parties if the parties agree to it. Similarly, other clauses are often specified in a treaty that are not essential elements.

Definition of Prenuptial Agreement

Prenuptial Agreement is an agreement made before the wedding takes place and binds both parties of the bride and groom who will get married. The prenuptial agreement is valid from the moment the marriage takes place and its contents include regulating how the property of both of you (together with the spouse) will be divided in the event of divorce, death of one spouse. This agreement can also contain how all family financial matters will be arranged or handled during the marriage or marriage.

According to Prof. R. Sardjono, SH., "Birth bond" means the parties concerned because marriage is formally husband and wife for them in relation to each other as well as for them to society

at large. The definition of "inner birth bond" in marriage means that in the mind of the husband and wife concerned there is a real intention to live together as husband and wife with the aim of forming and building an eternal happy family, it is clear that in a marriage it should not only be an inner birth bond or an inner bond alone these two elements are present in each marriage.

According to Paul Scholten, argues that: "Marriage is an eternal relationship between two people of opposite sexes, recognized by the state".

- a. Getting legitimate offspring to continue future generations.
- b. Get a happy family full of peace of life and a sense of affection. The principles and principles of marriage adopted by Undang-Undang Marriage and contained in the explanation of Undang-Undang Marriage, namely:
 - 1) The purpose of marriage is to form a happy and eternal family.
 - 2) Marriage is valid if it is performed according to the laws of each religion and belief; and in addition the marriage must be recorded according to the prevailing laws and regulations.
 - 3) This law adheres to the principle of monogamy, only when desired by the person concerned because the religious law of the person concerned allows that a husband can have more than one wife.
 - 4) The prospective husband and wife must have matured their bodies to carry out the marriage.
 - 5) Complicate divorce. Divorce must have certain reasons and must be done in front of a court hearing.
 - 6) The rights and position of the wife are balanced with the rights and duties

Legal Requirements for Marriage

The definition of the legal conditions of marriage according to Shuruth al-shihhah, that is, something whose existence is decisive in marriage. These conditions must be met to be able to cause legal consequences if not fulfilled then the marriage is invalid. The legal requirements for marriage according to Law Nomor 1 of 1974 are contained in Article 2, the difference is that Article 2 A yat (1) indicates the legal requirements for marriage according to religion, while Article 2 paragraph (2) is valid according to law after the fulfillment of paragraph (1) first.

Article 2 of Law Nomor 1 of 1974:

- 1) Marriage is valid if it is performed according to the laws of each religion and belief.
- 2) Every marriage is recorded according to applicable laws and regulations.

In the Civil Code views marriage only in civil relations, civil law in Indonesia is pluralistic because of the existence of population groups during the Dutch colonial era through Article 163 IS jo 131 IS. Including marriage law is also pluralistic. The marriage laws in force at that time were:

1. The Civil Code (Burgerlijk Wetboek) applies to Europeans.
2. Burgerlijk Wetboek (BW) with some exceptions is supplemented by the regulations on adoption and civil registration established by Staatsblad 1917 No.129 which applies to the Foreign Eastern Chinese.
3. Customary Law for non-Chinese Foreign Easterners.
4. Islamic Law and Customary Law for Bumiputera groups who are Muslim.
5. Huwelijks Ordonantie Christen Indonesiers (HOCl) Staatsblad 1933 Number 74 for Bumiputera who are Christians
6. Regeling op de Gemengde Huwelijken (GHR) Staatsblad 1898 No. 158 for those who engage in mixed marriages.

Legal Effects of Marriage

Rights and obligations of husband and wife in domestic relationships as husband and wife (marital relationship). If we are connected with Article 33 with Article 34, we can separate the family relationship between husband and wife in married life in 3 separations, even though the separation of rights and obligations between one another is interconnected in relation to husband and wife life in the proper unity of meaning. For every obligation of the husband will bring also reciprocity to the wife, and the duty of the wife will also automatically issue rights to the husband. However, even considering Article 33 and Article 34 we can separate the rights and obligations of the marital relationship in (Harapan, 1975):

- a. The duties of husband and wife among themselves in a general sense. This obligation relationship according to us is a more personal relationship between husband and wife in terms of humanity, both from a psychological and biological point of view. If we read the formula Porigin 33: husband and wife must love each other, love, respect, be faithful and give inner birth help to one another. Indeed, anyone has understood that marriage is a personal relationship between two humans who are different sexes in one aspect, so from the biological seg the

marriage relationship is a relationship of two different types of sex between one another. But on the other hand, the relationship is also a psychological relationship, which requires them to respect and respect, respect and love.

- b. Must be respectful-respectful. This is appropriate. Moreover, husband and wife, both in the realm of domestic life and outside domestic life, have the same position. Both are human beings who are born without distinction. Both husband and wife are human beings who are endowed with pure virtue (human problem). There is no difference in quality both physically and spiritually. There are only functional differences that will weave them together in a harmonious life together.
- c. Must be faithful between husband and wife The interpretation of faithfulness in terms of law is closely related to the understanding of trust derived from purity of heart not to do anything in the form of any betrayal of the success of the household. It is mutual trust that makes the couple feel calm and satisfied with the other. Feel happy like someone who lives in a safe residence.

In addition to rights and obligations, property issues are also a basic point that can cause various disputes or tensions in marital life, so that it may eliminate the harmony of domestic life. The Marriage Act, is singular. This means that parental power lies with each parent. If parents arrive at divorce, the power of parents is not removed, remaining in the power of their respective parents.

RESULTS AND DISCUSSION

Legal Provisions of Prenuptial Agreement Based on Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage in Indonesia

The marriage agreement is also regulated in Article 29 of Law Number 1 of 1974 concerning Amendments to Undang-Law Number 16 of 2019 concerning Marriage, including:

1. At or before the marriage takes place, both parties by mutual consent may enter into a written agreement ratified by the marriage registrar after which the contents of which also apply to the third party are involved.
2. Such agreements cannot be ratified if they violate the boundaries of law, religion and decency.
3. The agreement comes into force from the moment the marriage takes place.
4. As long as the marriage lasts, the agreement cannot be changed. Unless both parties agree to change and the change does not harm the third party.

The legal basis for the *Prenuptial Agreement* is regulated in Article 29 of Law Number 1 of 1974, and which is affirmed in the Compilation of Islamic Law (KHI) in Article 47, that as long as it does not contradict Islamic law, the marriage agreement can include the mixing of personal property, separation of each other's livelihood property, establishes their respective authorities to enter into mortgage bonds (agreements with the Bank, for example) over personal property and joint property. However, doing a Prenuptial Agreement must also consider several sides (aspects) which include:

- a. Openness in disclosing all the details of the financial condition of each spouse both before and after marriage, by referring also to how much of each party's (spouse) before marriage and also calculating how the potential increase is in line with increasing income or due to other things such as receiving inheritance from each spouse's parents.
- b. Each spouse must fairly say how much debt each party has before marriage and how the potential debt is after marriage and who will be responsible for repaying the debt, because it needs to be underlined in this case that it must be known by each spouse so that each partner will The married person knows correctly what will be accepted and what will be sacrificed if the marriage ends, so that neither party will feel disadvantaged from and as a result of the divorce.
- c. Willingness and consciously that the prenuptial agreement must be agreed and signed by each spouse (both parties) who in principle, voluntarily and without coercion from any party to sign the agreement without getting pressure in any form, because later if one party feels forced, because of a threat or Being under pressure so that it is forced to sign it, then legally the prenuptial agreement is declared void and has no binding legal force.
- d. Look for an official who is objective and authoritative in this case a Notary that you trust and do not forget to also determine and choose an authorized official who in fact has a good reputation and can maintain objectivity, so that in making the contents of the prenuptial agreement not biased (lame) so that between each spouse can get justice according to the agreement in the content of the agreement.

By entering into a marriage agreement, both prospective husbands and wives are entitled to prepare some deviations from the laws and regulations surrounding the union of property, provided that the agreement does not violate good decency and provided that all the provisions below are heeded according to the next article. In Islamic Law there are several conditions in the agreement which are as follows:

1. Not contrary to shari'ah law, it means that the agreement made is not an act that violates shari'ah, because an agreement that violates the rules of shari'ah law is invalid or void, and the parties are not obliged to obey the agreement because it is contrary to shari'ah law. In accordance with the words of the Prophet SAW "Any condition that is not contained in the book of Allah, then is vanity. Despite a hundred conditions" (HR Muslim: 2734).⁵⁶
2. The promise made by both parties is based on the agreement of both parties, that is, both parties accept the contents of the agreement.
3. The content of the agreement must be clear, meaning that what is promised must be clear in content, so that in the future there will be no misunderstanding between the two parties about what has been agreed.

In the Compilation of Islamic Law Book 1 on the law of marriage mentioned in Article 47 is:

1. At or before the marriage takes place, the bride and groom can make a written agreement endorsed by the Marriage Registrar regarding the position of property in the marriage.
2. The agreement under subsection (1) may include the mixing of personal property and the separation of each other's livelihood property as long as it is not contrary to Islam.
3. In addition to the provisions in paragraphs (1) and (2) above, the content of the agreement may also stipulate their respective authorities to enter into mortgage bonds on personal property and joint property or company property.

Furthermore, Article 48 states that:

1. When a marriage agreement is made regarding the separation of joint property or company property, the agreement cannot eliminate the obligation of the husband to meet the needs of the household.
2. If a marriage agreement is made that does not meet the provisions mentioned in paragraph (1), it is considered that there will still be a separation of joint property or company property with the obligation of the husband to bear the costs of household needs.

In carrying out a prenuptial agreement as an agreement and binding on prospective husband and wife couples, it is basically the same as other general agreements, because both bind themselves to article 1320 of the Civil Code regarding the legal terms of the agreement. The legal conditions of an agreement require 4 conditions, namely:

1. Their agreement is binding on him;
2. Able to make a covenant;
3. Regarding a particular matter;
4. Halal causes.

The contracting party must be a person who is of legal age and has common sense or is legally capable. Article 1330 of the Civil Code states that parties who are not yet legal to enter into an agreement are:

- a. Immature people;
- b. Those who are put under forgiveness;
- c. Women in matters stipulated by the Undang-Undang
- d. All persons to whom the Act has forbade making certain agreements.

Things that should not be included in a prenuptial agreement according to the Civil Code are as follows:

- a. Article 139.
Prospective spouses with a marriage agreement may deviate from the laws and regulations concerning joint property provided that it does not conflict with the general order and the following provisions are observed.
- b. Article 140.
 1. It must not violate the marital rights of the husband, that is, the rights of the husband in his status as a husband, i.e. the husband must determine where the husband and wife should reside.
 2. It must also not violate parental rights. According to article 300, parental power is exercised by the husband.
 3. Must not violate the rights granted by law to the husband or wife who lives the longest. This is about the inheritance rights of a husband or wife (Article 852 a). the husband and wife who live the longest by law become guardians (Article 845).
 4. Must not violate the rights of the husband in his status as the head of the conjugal union. For example, it should not be agreed that the wife can act alone when it comes to union property.

c. Article 141.

It should not be agreed that the share of debt that falls to one of the parties, is determined to be greater than the share of profits.

d. Article 142.

In common words, it shall not be agreed that the marriage bond shall be subject to foreign provisions, customs or local regulations.

The truth of the prenuptial agreement in Indonesia itself is legally protected. Article 29 paragraph (1) of Law No. 1 of 1974 on Marriage which states "At or before the marriage takes place, both parties by mutual consent may submit a written agreement ratified by the marriage registrar's employee after which the contents also apply to the third party concerned." This means that the law has recognized the validity of a prenuptial agreement that protects between husband and wife. The following is the process of making the Agreement until its implementation:

- a. Write each other's wishes. Couples can discuss, then pour all the things they want to arrange in the prenuptial agreement. This agreement is free, but bound by a contract that has been ratified by a notary.
- b. Bring a legal consultant. If the prospective husband and wife are confused in pouring the points of agreement, they can go to a legal consultant to ask for direction. Because sometimes, couples who are just planning to get married need the help of a counselor to get an idea of the rules and regulations outlined in the prenuptial agreement.
- c. Take it to a Notary. After the couple finishes writing down all the things they want to put in the prenuptial agreement, it is enough to take it directly to the notary to be ratified immediately. There is no need to come to court to prepare a prenuptial agreement because the notary already has a strong law.
- d. It can still be changed even if it has been brought to a Notary. After being brought to a notary, the party who has legal authority will compile point by point and sentence by sentence that has been written previously in the format of a prenuptial agreement and can still change it if it changes its mind before it is ratified into a deed.
- e. Bring the Deed to the Civil Registration Institute or the Office of Religious Affairs (KUA). The last step, bring the prenuptial agreement to the local Civil Registration Institute or KUA to be registered immediately. The reason is, this agreement must be handed over before the *ijab qabul* procession. Therefore, make it at least two months before the wedding is held.

Legal Effects on Marital Property with the Prenuptial Agreement in Indonesia

Basically, a prenuptial agreement is made for the benefit of legal protection of each other's property, namely the property of the prospective husband or the property of the prospective wife. According to Law Number 1 of 1974 there are 2 (two) kinds of property in marriage, namely:

- a. Joint property, which is meant by joint property is property acquired during marriage. The origin of where this treasure was obtained is not in question. Whether the property is obtained from the wife or the husband, they are all joint property of the husband and wife.
- b. Congenital property, is property brought by each husband and wife into his marriage, property acquired by each either as a gift or inheritance

The benefit of a prenuptial agreement is that it can regulate the resolution of problems that may arise during the marriage period, including the following:

1. About the separation of wealth, so there is no *gono gini* treasure. The condition is that it must be made before marriage, if after marriage it is only made, so it is null and void and must be registered at the place of marriage registration. If you are married, you can no longer separate your property. Everything becomes a treasure of *gono gini*.
2. In the framework of the divorce process, wanting to separate property, it is possible to make an agreement on the division of property. The point is that in a prenuptial agreement, an agreement can be reached that there is no mixture of income and assets, both during the marriage and in the event of separation, divorce, or death.
3. About debt separation, so in the prenuptial agreement can also be regulated regarding the issue of debt that will remain the responsibility of the party who carries or holds the debt. The debt in question is debt that occurs before marriage, during the marriage period, after divorce, even death.
4. Responsibility for the children of the marriage. Especially regarding the issue of children's living costs, also the cost of education must be regulated in such a way, how much each parent contributes, in this case the goal is that the welfare of children remains guaranteed.

Another legal consequence of making a marriage agreement is definitely the separation of property obtained before the marriage takes place or during the marriage in accordance with what is

agreed in the marriage agreement. If one of the parties does not carry out the contents of the marriage agreement, then it can be used as a reason for divorce. A marriage agreement can also be binding on a third party as long as the third party is also involved in making the marriage agreement. The marriage agreement is made before a notary with the following objectives:

1. Limit or "completely eliminate" the statutory togetherness of property.
2. Schenking from husband to wife or vice versa, or reciprocal gifts between husband and wife (Article 168 BW).
3. Limiting the husband's power over the goods of togetherness stipulated by Article 124 paragraph (2) BW, so that "without the help" of his wife, the husband cannot commit acts that are disconnecting (*beschikken*). The same applies to movable and immovable objects carried by the wife (*aanbrengst*) or to objects obtained during the marriage in the name of the wife (Article 140 paragraph (3) BW).
4. As a testament from husband to wife or vice versa, or reciprocal testament (Article 169 BW).
5. Giving gifts (*schenking*) by "third parties" to husbands and or wives (Article 176 BW).
6. As a *testament* from a "third party" to the husband and or wife (Article 178 BW). Both testament and schenking referred to in points 4) to 6) may occur, if the togetherness of wealth is limited or eliminated.

On the other hand, in points 5) and 6) as already mentioned, the marriage agreement not only binds the husband and wife, but also binds the third party who is a party to the agreement and participates in signing the certificate. In addition to the above explanations, according to the provisions of Article 140 paragraph (2) BW, a wife can still manage or maintain (*beheer*) her personal property.

Marriage Agreement / Prenuptial Agreement is a legal event that has consequences that have been regulated by applicable law/law. The juridical consequences of the Marriage Agreement/Prenuptial Agreement include:

1. The agreement binds the husband and wife,
2. The Agreement binds interested third parties,
3. The agreement can only be amended with the consent of both husband and wife, and does not harm the interests of third parties, and is ratified by the marriage registrar.

The explanation of Article 1374 of the Civil Code and the most important meaning can be learned is that the agreements must be executed by the parties in good faith and compliance. If there is a violation of the Marriage Agreement, then the violation of the Marriage Agreement can be used as a reason to file a divorce lawsuit with the Court. The reason for making a Prenuptial Agreement is not to divorce in the future but tends to protect the parties (husband / wife) if things happen that are not desirable during the marriage. There are several positive impacts of this Prenuptial Agreement for the parties who make it, namely:

1. Everything is clearly arranged. The existence of a prenuptial agreement for domestic life is increasingly clear so there is no need to worry about each party.
2. Possessions and debts. The problem of property and debt can be a complicated problem when a married couple decides to separate, with this letter it is clearly stipulated that the husband's property and debts belong to and the husband's responsibility is also what happens to the wife.
3. Make an effort. With this agreement, married couples can easily and professionally create a new venture. This happens because the calculated wealth is not in the name of one person, but the name of each one.

In addition to having a positive impact, this Prenuptial Agreement also has a negative impact that is very influential for the continuity of marriage. The impact can be in the form of the following:

1. Selfish. On the downside, this agreement can backfire because it shows the selfish side of both husband and wife. One of the married couples can be more powerful because they have more assets.
2. Negative influence. Other negative things, cheating or spree often occur because there is no supervision of the property produced after a married couple gets married. Ideally, the husband can be more concerned with the property he has, as well as the wife.
3. Excessive fear. This prenuptial agreement can be an illustration that there is excessive fear from you and your partner to live life together. Keep in mind, that if you have decided to get married, it means you are ready to accept your partner completely and already know your partner's character. The implementing regulations do not further regulate how the prenuptial agreement is issued. Article 12 h of Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 concerning Marriage, says "Perjanjian Nikah if any". So if there is a Marriage Agreement, it must be contained in the Marriage Certificate and vice versa. So if there is an agreement, but it is not contained in the deed then the deed is not perfect.

The benefits of the Prenuptial Agreement itself, among others:

1. To protect the property of each party (prospective husband / wife). This proves that the prospective spouse will marry you, not with the property owned.
2. To protect the interests of the parties. This means that if the husband practices polygamy, then there will be arrangements regarding the lives of all wives and the property of each marriage separately.
3. Guarantee the parties (husband / wife) in terms of debts from each party.
4. Guarantee the continuity of family property.
5. Guarantee financial conditions after marriage breaks up or ends. This tends to be beneficial for women who do not have jobs.

CONCLUSION

The legal provisions of prenuptial agreements in Indonesia are regulated in the Civil Code Articles 139 to Article 154. In addition, it is stipulated in Article 29 of Law Number 1 of 1974 concerning Amendments to Undan g-Law Number 16 of 2019 concerning Marriage According to the Civil Code that the marriage agreement must be made by notarial deed held before marriage. This marriage agreement includes marriage agreements with mutual profit and loss, marriage agreements with mutual results and the elimination of togetherness of property. Such agreements cannot be ratified if they violate the boundaries of law, religion and decency. The agreement is valid from the moment the marriage takes place. During the marriage the agreement cannot be changed, unless both parties agree to change and the change does not harm the third party

The legal consequences of marital property from a prenuptial agreement, namely the agreement binding the husband and wife, the agreement binds the interested third party, and the agreement can only be changed with the consent of both husband and wife, and does not harm the interests of the third party, and is authorized by the marriage registrar employee. A marriage agreement that satisfies the requirements regarding the validity of agreements under Article 1320 of the Civil Code and special conditions according to Article 29 of Law Number 1 of 1974, (ratified by the marriage registrar) must be deemed valid in accordance with the law for the contracting party.

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