

## Between Marital Property and Inheritance: Judicial Legal Reasoning of the Religious Courts in Resolving Post-Death Marital Property Disputes

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### ABSTRACT

**Purpose** – This research analyzes the Purwokerto Religious Court's decision by examining the judges' legal reasoning in applying the principles of justice, legal certainty, and benefit in resolving disputes over joint property after death. In disputes over joint property after death, the main issue lies in determining the status of the property, whether it is joint property or inheritance, which affects the distribution of rights between the surviving spouse and heirs.

**Methods** – This research uses a normative juridical method with a qualitative approach, using legal reasoning theory to analyze the Purwokerto Religious Court's decision No. 1655/Pdt.G/2020/PA.Pwt and interviewed the judges who handled the cases. The analysis also refers to the theories of joint property in Islamic and positive laws.

**Findings** – The findings show that the panel of judges at the Purwokerto Religious Court applied both deductive and inductive legal reasoning to decide disputes over joint property after the death of one of the spouses. Deductive reasoning is reflected in the application of the Marriage Law, Compilation of Islamic Law (KHI), and Civil Code, which adhere to the principle of equal distribution. Inductive reasoning is applied through the assessment of evidence, witness testimony, and field inspections (*descente*), which resulted in only two assets being recognized as joint property, while other claims were rejected due to a lack of evidence. Claims related to personal property and inheritance were declared inadmissible on procedural grounds by the Court. Overall, this ruling demonstrates that judicial reasoning prioritizes legal certainty and evidentiary standards while ensuring substantive justice through the equal division of proven marital property.

**Research implications/limitations** – This study can serve as a starting point for broader research with a larger number of decisions made.

**Keywords:** *Marital Property, Inheritance, Judicial Legal Reasoning, Marital Property Disputes*

### Introduction

The issue of joint property in contemporary Islamic family law in various Muslim-majority countries is a complex one, because classical Islamic law does not explicitly

recognize the concept of joint property,<sup>1</sup> so that each Muslim country has a different approach to regulating and resolving marital property disputes.<sup>2</sup> Islamic law normatively treats the property of husbands and wives as belonging to each individual and emphasizes the husband's obligation to provide for his wife.<sup>3</sup> Therefore, the concept of joint property that automatically arises due to marriage is a modern legal phenomenon,<sup>4</sup> which is not clearly discussed in classical *fiqh* and is often questioned in contemporary literature on Islamic family law in various modern Muslim countries.

In Indonesia, joint property is understood as property acquired during marriage, regardless of whose name the property is registered under, as stipulated in Article 35, paragraph (1) of Law Number 1 of 1974 concerning Marriage and Article 1, letter (f) of the Compilation of Islamic Law (KHI).<sup>5</sup> Despite a clear normative basis, joint property often gives rise to disputes due to differences in perceptions regarding ownership, contribution, and control of marital property.<sup>6</sup> Disputes over joint property often arise when a marriage ends, either through divorce or the death of one of the parties involved.<sup>7</sup> However, disputes over joint property after death are more complex, with legal issues arising when a combination of joint property and inheritance laws exists. This complexity is evident in the case of the Purwokerto Religious Court No. 1655/Pdt.G/2020/PA.Pwt, where the issue lies in determining the status of joint property, whether it is classified as joint property that leaves a portion for the surviving spouse or whether it becomes entirely an object of inheritance. This issue impacts the rights of each party and the judge's efforts to balance fundamental

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<sup>1</sup> Amir Fazlim Jusoh Yusoff, "Reassessment of Islamic Legal Bases for Matrimonial Property in Malaysia," *El-Usrab: Jurnal Hukum Keluarga* 7, no. 2 (December 2024): 541, <https://doi.org/10.22373/ujhk.v7i2.26374>.

<sup>2</sup> Ahmad Jamaludin Jambunanda et al., "VOSviewer-Assisted Systematic Review and Meta-Analysis of Joint Property Disputes in Family Law in Indonesia and Malaysia," *Global Journal of Comparative Law* 14, no. 2 (2025), <https://doi.org/10.1163/2211906X-14020003>.

<sup>3</sup> Ibnu Elmi As. Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (November 2021): 287–316, <https://doi.org/10.14421/ajis.2021.592.287-316>.

<sup>4</sup> Abd Rouf, Mufidah Ch, and Zaenul Mahmudi, "Joint Property Division in Indonesia: A Gender Equality Viewpoint," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (December 2023): 230–50, <https://doi.org/10.18860/j-fsh.v15i2.23050>.

<sup>5</sup> Mahbubatul Hafifi, Sri Lumatus Saadah, and Wildani Hefni, "Perjanjian Perkawinan Dan Konsekuensinya Terhadap Harta Bersama Pasca Perceraian (Studi Komparatif Hukum Perdata Dengan Kompilasi Hukum Islam)," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 18, no. 2 (2024): 1402–12, <http://dx.doi.org/10.35931/aq.v18i2.3421>.

<sup>6</sup> Dwi Anindya Harimurti, "Perbandingan Pembagian Harta Bersama Menurut Hukum Positif Dan Hukum Islam," *Jurnal Gagasan Hukum* 3, no. 02 (2021): 149–71, <https://doi.org/10.31849/jgh.v3i02.8908>.

<sup>7</sup> Nurzamzawiah Kudus, Safril Sofwan Sanib, and Haris Yusuf, "Pembagian Harta Bersama Berupa Hak Royalti Hak Cipta Dalam Hukum Perkawinan Di Indonesia," *Halu Oleo Law Review* 8, no. 1 (2024): 101–11, <https://doi.org/10.33561/holrev.v8i1.111>.

principles (fairness, legal certainty, and benefit) in their legal reasoning. Based on this issue, it is interesting to examine judges' legal considerations in deciding cases of joint property after death at the Purwokerto Religious Court.

Previous research on joint property disputes has generally focused on divorce when both spouses are alive. For example, research by Safira Maharani Putri Utami (2023)<sup>8</sup>, Aprilyani Yunita (2024)<sup>9</sup>, Amini Aprindawati (2023)<sup>10</sup>, Fina Alfiyani (2023)<sup>11</sup>, and Nurul Ainun (2020)<sup>12</sup> discusses the division of property between ex-husbands and ex-wives, with both parties still able to attend the trial. However, these studies have not highlighted the settlement of joint property after one party dies when a lawsuit is filed against the heirs. This creates new legal dynamics, particularly regarding asset verification, legal construction, and judicial considerations, which gives this study significant novelty.

Thus, this study examines judges' legal reasoning in deciding disputes over joint property arising from divorce, as well as the conformity of these decisions with applicable regulations. As is well known, the main factors causing conflict over joint property are a lack of understanding of the components of joint property and a sense of injustice due to contributions to work and income.<sup>13</sup> Disputes over joint property after divorce can be resolved through the Religious Court.<sup>14</sup> Judges must not take sides with anyone and must have a good perspective when formulating legal considerations.<sup>15</sup> Legal reasoning is required

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<sup>8</sup> Safira Maharani et al., *Penerapan Teori Keadilan Terhadap Pembagian Harta Bersama Pasca Perceraian*, 6, no. 1 (2023): 2–3.

<sup>9</sup> APRILYANI YUNITA, “TINJAUAN YURIDIS TERHADAP PUTUSAN PENGADILAN AGAMA TERHADAP GUGATAN HARTA BERSAMA DAN IMPLIKASINYA DALAM HUKUM KELUARGA DI INDONESIA,” *LEX PRIVATUM* 13, no. 5 (2024).

<sup>10</sup> Amini Aprindawati, Holijah Holijah, and Muhammad Yahya Selma, “Analisis Pembagian Harta Bersama Setelah Perceraian Dalam Perspektif Kompilasi Hukum Islam Di Pengadilan Agama Pangkalan Balai (Studi Putusan Perkara No. 458/Pdt. G/2020/PA. Pkb),” *Doctrinal* 8, no. 1 (2023): 148–61.

<sup>11</sup> Fina Alfiyani and Afif Muamar, “Hasil Putusan Pembagian Harta Bersama Dalam Pengadilan Agama Sumber Kelas 1A,” *Jurnal Hukum Positum* 8, no. 1 (2023): 52–75, <https://doi.org/10.35706/positum.v8i1.10044>.

<sup>12</sup> Nurul Ainun Marfuah and Erlina Erlina, “Legal Reasoning Hakim Dalam Menentukan Besaran Bagian Harta Bersama Dalam Perkara Perceraian (Studi Putusan Nomor 139/Pdt. G/2017/PA Takalar 1B),” *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 2, no. 1 (2020): 27–37.

<sup>13</sup> Indi Asqia Az-zahra et al., *Dinamika Penyelesaian Harta Bersama: Perbedaan Pandangan Tokoh Agama Di Kecamatan Bagan Sinembah*, 16, no. 2 (2024): 394–407, <https://doi.org/10.32505/jurisprudensi.v16i2.8774>.

<sup>14</sup> Agus Suprianto, “Mediasi Pembagian Harta Bersama Dalam Putusan Pengadilan Agama Sleman Nomor 413/Pdt. G/2015/PA. Smn,” *Asas Wa Tandhim: Jurnal Hukum, Pendidikan Dan Sosial Keagamaan* 1, no. 2 (2022): 179–200, <https://doi.org/10.47200/awtjhpsa.v1i2.1291>.

<sup>15</sup> Alva Dio Rayfindratama, “Kebebasan Hakim Dalam Menjatuhkan Putusan Di Pengadilan,” *Birokrasi: Jurnal Ilmu Hukum Dan Tata Negara* 1, no. 2 (2023): 1–17, <https://doi.org/10.55606/birokrasi.v1i2.409>.

for judges to use as a basis for deciding cases.<sup>16</sup> Legal reasoning involves finding the legal basis for a legal event.<sup>17</sup> Thus, legal reasoning in joint property must be based on the principle of equality for all parties and in accordance with applicable regulations.

## Methods

This research is qualitative with an empirical juridical approach, focusing on applicable laws and regulations and their application in court. The data used in this research are primary data obtained through observation, interviews with judges, and documentation in the form of the Purwokerto Religious Court's decision No. 1655/Pdt.G/2020/PA.Pwt regarding joint-property disputes. Secondary data in this study refer to information collected indirectly through intermediary sources. The inductive analysis method was used in this study. Inductive analysis is a data processing approach that uses several concepts and categories, which are then elaborated into a complete formulation.<sup>18</sup> The data analysis process began with the collection of specific information through interviews and documentation. The collected data were then analyzed to identify significant patterns and categories. Furthermore, the categorized data were analyzed in depth using a theoretical framework of reasoning and judicial discovery to produce a conceptual description and ultimately draw conclusions.

## Result and Discussion

### The Process of Settling Joint Property Disputes at the Purwokerto Religious Court

On August 4, 2020, the plaintiff, who is the wife of the deceased, filed a lawsuit with the Purwokerto Religious Court against her father-in-law and mother-in-law as defendants in a joint property case, with the register No. 1655/Pdt.G/2020/PA.Pwt. The plaintiff's marriage lasted from 2016 until her husband's death in 2019. After his death, the plaintiff took legal action to assert and protect her rights to the property acquired during marriage. The case essentially covered three components of the claim: joint property, personal property, and inheritance. However, after going through the examination process, the panel of judges only granted the part related to joint property, while the claims regarding personal property and inheritance were declared inadmissible.

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<sup>16</sup> Aditya Yuli Sulistyawan and Aldio Fahrezi Permana Atmaja, "Arti Penting Legal Reasoning Bagi Hakim Dalam Pengambilan Putusandi Pengadilan Untuk Menghindari Onvoldoende Gemotiveerd," *Jurnal Ius Constituendum* 6, no. 2 (2021): 482–96, <http://dx.doi.org/10.26623/jic.v6i2.4232>.

<sup>17</sup> Habibul Umam Taqiuddin, "Penalaran Hukum (Legal Reasoning) Dalam Putusan Hakim," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 1, no. 2 (2019), <http://dx.doi.org/10.58258/jisip.v1i2.343>.

<sup>18</sup> Amruddin et al., *Metodologi Penelitian Kuantitatif Dan Kualitatif*, ed. Arif Munandar (Bandung: Media Sains Indonesia, 2022).

This decision shows how the court clearly distinguishes between categories of property law in marriage and emphasizes the importance of clear evidence and legal basis in each type of claim filed. According to Harahap, unacceptable lawsuits (*niet-ontvankelijk verklaard*) can arise from procedural defects, such as lawsuits that have no legal basis, errors in the qualification of the parties, or issues related to *plurium litis consortium*, which includes confusion among the parties involved and the absence of the necessary parties in the case.<sup>19</sup> The third cause is a lawsuit that contains defects (*obscur libel*), namely, the content of the lawsuit is vague or unclear. The last cause is a lawsuit that violates absolute or relative jurisdiction. Such authority includes matters related to marriage, inheritance, wills, grants, zakat, *infaq*, *sadaqah*, and sharia economics.<sup>20</sup> In the joint property dispute, the judge at the Purwokerto Religious Court stated:

“The consolidation of these lawsuits helps to avoid the need to file multiple lawsuits, making the process more practical for the parties. In addition, the examination becomes more focused because all issues related to joint property are discussed in a single case series. This method also minimizes the possibility of different decisions on the same issue being made. Thus, the consolidation of lawsuits contributes to a simple, fast, and inexpensive judicial process”<sup>21</sup>

This statement provides an argumentative basis for the consolidation of lawsuits, as it is interrelated and in line with the principles of a simple, fast, and inexpensive judicial process. This confirms that the consolidation of lawsuits is considered a legitimate mechanism for ensuring the efficiency and fairness of the judicial process. As stipulated in Law Number 7 of 1989 concerning Religious Courts and Law Number 50 of 2009, lawsuits related to child custody, alimony, and joint property can be filed simultaneously with a divorce lawsuit or after the divorce decree becomes final and binding. However, the panel of judges rejected the joinder of claims filed by the plaintiff regarding joint property, personal property, and personal property because they had different legal titles and the claims were incomplete. The wife, as the plaintiff, filed a lawsuit against her deceased husband's heirs, namely her parents-in-law as defendants I and II, to claim rights to several joint assets that were still in the possession of the defendants.

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<sup>19</sup> M Yahya Harahap, *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan*, 2nd ed., ed. Tarmizi (jakarta: Sinar Grafika, 2017).

<sup>20</sup> Andi Intan Cahyani, “Peradilan Agama Sebagai Penegak Hukum Islam Di Indonesia,” *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 6, no. 1 (2019): 119–32, <https://doi.org/10.24252/al-qadau.v6i1.9483>.

<sup>21</sup> Judge, “Interview with the Judge of the Purwokerto Religious Court,” 2025.

In the lawsuit, the assets claimed by the plaintiff as joint property included a plot of land with a house on it, three cars, and receivables from the first defendant. In addition to joint property, the plaintiff claimed that her late husband had personal property in the form of motor vehicles. Considering that the deceased (former husband) had only one wife and no children and that both of his parents were still alive, the plaintiff requested that the heirs entitled to receive the inheritance be the plaintiff (wife), defendant 1 (father), and defendant 2 (mother). According to the plaintiff, these assets have never been divided since the deceased's death and are still under the control of the defendants, except for the motor vehicle (a motorcycle). The plaintiff had previously attempted to reach an amicable settlement with the defendants but received no response. Through her legal representative, the plaintiff also sent a summons to appear, but it was ignored by the defendant. Therefore, the plaintiff filed a case with the Purwokerto Religious Court. In accordance with Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, mediation efforts were carried out before the trial, but no agreement was achieved.

The process of joint property proceedings is no different from other court proceedings. Court procedures in religious courts are regulated by Law No. 50 of 2009 on Religious Courts. The stages of this process include filing a lawsuit or petition, which can be done through the legal aid post (*posbakum*) provided at the Religious Court or by a legal representative if one is used. The next process is registration, where justice seekers can register the lawsuit or petition with the Religious Court Registry to be processed to determine the panel of judges and the date of the hearing, as well as the summons of the parties involved by the court clerk.

The process of joint property proceedings is no different from proceedings in other courts, with the trial procedure as stipulated in Law Number 50 of 2009 concerning Religious Courts,<sup>22</sup> namely the registration of Religious Court lawsuits to be processed in order to determine the panel of judges and the date of the hearing, as well as the summons of the parties involved by the court clerk. The next stage is mediation as stipulated in Supreme Court Regulation (Perma) Number 1 of 2016, concerning mediation procedures in court. This stage must be carried out before the examination of the main case by appointing mediators. If mediation is successful, the parties will draw up a settlement agreement, and

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<sup>22</sup> Sudirman L Sudirman L, *Hukum Acara Peradilan Agama*, ed. M.S.I. ABD. Karim Faiz (Parepare, Sulawesi Selatan: IAIN Parepare Nusantara Press, 2021).

the case will be considered closed. However, if it fails, the case proceeds to the next stage. The next stage is the court hearing. At the first hearing, the contents of the lawsuit or petition are usually read out, followed by the defense stage, the evidence stage, the drafting of conclusions by the parties before the judges' deliberation, and the final stage, which is the reading of the verdict by the panel of judges. The next stage is legal action. If one party is dissatisfied with the verdict, they can file an appeal within 14 days of the verdict becoming final and binding.

The duration of the trial process depends on the dispute, although the Supreme Court has set a maximum trial period of four months for all cases. The trial process for case number 1655/Pdt. G/2020/PA.Pwt took a considerable amount of time, namely 147 days or almost five months, particularly during the evidence stage. One of the factors that caused the lengthy evidence stage was the large amount of evidence submitted during the trial and the defendants' objections to some of the assets claimed by the plaintiff as joint properties. These objections were reinforced by written evidence submitted by the defendants proving that the ownership status of these assets was in their names. In addition, witnesses from both the plaintiff and defendant sides did not know the ownership status of the disputed assets.

Thus, to ascertain the existence and ownership status of the claimed assets, the panel of judges conducted a field inspection (*descente*) at the residences of the plaintiff and defendants. However, during the inspection, the plaintiff was unable to prove ownership of the claimed property, and some properties could not be found. Field inspection (*descente*) is an important instrument in the examination of factual evidence for property ownership disputes because it provides the panel of judges with a direct picture of the disputed object, enabling them to assess the physical condition, boundaries, and existence of the object in concrete terms, beyond mere written documentation.<sup>23</sup> The results of the on-site inspection, which reflect the discrepancy between the claim and the reality of the object, become an important evaluative criterion for upholding the principle of evidence, whereby the party claiming a right must convincingly prove the existence and legal basis of ownership.<sup>24</sup>

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<sup>23</sup> Michael A. Becker and Cecily Rose, "Investigating the Value of Site Visits in Inter-State Arbitration and Adjudication," *Journal of International Dispute Settlement*, May 27, 2016, idw005, <https://doi.org/10.1093/jnlids/idw005>.

<sup>24</sup> Finsensius Fitarius Mendrofa, Agus Budianto, and Elisabeth Ryanthie Maya Puteri, "Legal Consequences of the Judge's Error by Not Including Court Evidence in a Decision," *Journal of Posthumanism* 5, no. 6 (June 2025): 4037–48, <https://doi.org/10.63332/joph.v5i6.2576>.

## Legal Reasons for Judges in Deciding Joint Property Disputes

Legal reasons are often identified with the intellectual process used by judges to reach conclusions when deciding cases.<sup>25</sup> Legal reasons serve as a means of thinking for judges in determining the next steps.<sup>26</sup> These reasons require a comprehensive yet rational perspective that is easily understood by the public. However, these reasons are not only based on logic but must also be in accordance with the context and objectives of the law.<sup>27</sup> For example, in the Malaysian family law system, property acquired by a husband and wife during marriage is considered marital property. The division of marital property after divorce is determined by the court, considering the contributions of each party in acquiring the property during the marriage, both direct and indirect.<sup>28</sup> Of course, this concept differs from the joint property system in Indonesia, which normatively regulates an equal division of property between widows and widowers at 50%:50%.

In this case, the panel of judges decided to divide the joint property by allocating 50% to the plaintiff and the remaining 50% to the deceased husband. The property of the deceased spouse then becomes an inheritance. This is in accordance with Article 96, Paragraph 1 of the Compilation of Islamic Law, which states that in the event of divorce due to death, half of the joint property belongs to the surviving spouse. This is also in line with Article 128 of the Civil Code, which states that, in the event of divorce, joint property is divided equally between the husband and wife. Thus, the division of joint property is carried out fairly between husbands and wives.<sup>29</sup>

The panel of judges considers evidence and testimony in dividing joint property through evidence in civil proceedings aimed at upholding formal truth. Evidence is an effort to provide certainty regarding the legal facts that are the subject of the case to the panel of judges who handle the case. These facts can be obtained from the lawsuit, response, reply,

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<sup>25</sup> Luca Siliquini-Cinelli, "What Is Legal Reasoning?," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 38, no. 1 (January 2025): 143–62, <https://doi.org/10.1007/s11196-024-10141-3>.

<sup>26</sup> Johan Lindholm, Mattias Derlén, and Daniel Naurin, "A Source-Based Theory of Variation in Judicial Reasoning: Evidence from Sweden," *Journal of Law & Empirical Analysis* 2, no. 1 (June 2025): 121–41, <https://doi.org/10.1177/2755323X251335396>.

<sup>27</sup> Thomas Riesthuis, "The Legitimacy of Judicial Decision-Making: Towards Empirical Scrutiny of Theories of Adjudication," *Utrecht Law Review* 19, no. 2 (May 2023): 75–86, <https://doi.org/10.36633/ulr.877>.

<sup>28</sup> Norliah Ibrahim and Nora Abdul Hak, "Division of Matrimonial Property in Malaysia: The Legal Historical Perspective," *SEJARAH: Journal of the Department of History* 15, no. 15 (2007), <https://doi.org/10.22452/sejarah.vol15no15.8>.

<sup>29</sup> Eka Ristianawati, "Joint Property Distribution upon Divorce Reviewed From the Contribution of Husband and Wife in the Household," *Walisongo Law Review (Walrev)* 3, no. 1 (June 2021): 1–20, <https://doi.org/10.21580/walrev.2021.3.1.8078>.

rejoinder, both in the convention and reconvention, and evidence.<sup>30</sup> Therefore, evidence plays an important role in the formation of legal considerations in verdicts. Article 164 HIR (283 RBG) and Article 1903 BW list five types of evidence: written evidence, witness/expert testimony, presumption, confession, and oath.<sup>31</sup> Evidence can determine and establish new legal principles in certain cases, as well as serve to convince the court of the truth of a position, while means of evidence and efforts to prove are tools to prove the arguments put forward by the parties concerned in the trial.<sup>32</sup>

Evidence in this joint property dispute was presented in the form of written evidence and witness testimonies from each party. This is in accordance with Article 1867 of the Civil Code, which states that written evidence can be in the form of an authentic or a written and signed deed. In addition, evidence in the form of authentic deeds can be official documents made by an authorized official (notary), as stipulated in Article 1868 of the Civil Code. The written evidence submitted by the plaintiff in this case was not strong enough, and even during the field examination (*descente*), the plaintiff was unable to prove the existence of the claimed property. Some of the evidence submitted by the plaintiff was refuted by the defendant by submitting written evidence, the accuracy of which could be verified by a panel of judges.

Likewise, witness testimony, as regulated in Article 1895 of the Civil Code, requires witnesses to tell the truth about everything that does not conflict with the law. Thus, it is necessary for the examining judge to be cautious when assessing witness testimony. A judge stated that:

“We must be careful when examining cases, especially witness evidence. If the defendant's claims can be proven to be true, even by witness testimony, then the claim is granted, whereas if the claims cannot be proven, then the claim is rejected by the panel of judges.”<sup>33</sup>

This evidence became the basis used by the panel of judges in drafting the decision on joint property case number 1655/Pdt.G/2020/PA.Pwt and considering the relevant legal basis related to joint property and its distribution. Therefore, the panel of judges issued a

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<sup>30</sup> Alifa Ramadhani Adrianti and Reni Anggraini, “Kekuatan Keterangan Ahli Terhadap Alat Bukti Elektronik Dalam Perkara Perdata,” *Media of Law and Sharia* 5, no. 3 (2024), <https://doi.org/10.18196/mls.v5i3.109>.

<sup>31</sup> Ardhian Wahyu Firmansyah, Rusdin Alauddin, and Faissal Malik, “Perkembangan Kedudukan Dan Kekuatan Bukti Elektronik Dalam Sistem Pembuktian Perdata,” *Amanna Gappa*, 2022, 60–74.

<sup>32</sup> Efa Laela Fakhriah, *Bukti Elektronik Dalam Sistem Pembuktian Perdata* (Penerbit Alumni, 2023).

<sup>33</sup> Judge, “Interview with the Judge of the Purwokerto Religious Court.”

decision to divide the joint property 50:50 between the plaintiff and her deceased husband. The legal reasoning used by the judge in this case is in accordance with legal reasoning theory, namely, inductive and deductive legal reasoning.<sup>34</sup> The deductive legal reasoning method is based on general facts that are considered true and produces more specific conclusions, so that decision number 1655/Pdt.G/2020/PA.Pwt refers to the Marriage Law, Article 97 of the KHI, and the Civil Code, which require fair and equal distribution between both parties. Meanwhile, inductive reasoning starts from specific events obtained through observation and produces universal understanding or conclusions by considering the evidence and witnesses.<sup>35</sup>

The reasoning carried out by the panel of judges is in accordance with Article 50 of Law Number 48 of 2009 concerning Judicial Authority, which stipulates that court decisions must not only include the reasons and basis for the decision but also the specific applicable legal provisions. Similarly, in drafting the decision, the judge formulated Decision No. 1655/Pdt.G/2020/PA.Pwt using three approaches: legal interpretation, legal construction, and legal hermeneutics.<sup>36</sup> The method of interpretation is a tool for determining the intent of the law by explaining its provisions, which ultimately enforces positive law.<sup>37</sup> The panel of judges used the method of legal interpretation by interpreting the laws and regulations relating to the division of joint property.

The second method is the method of legal construction, which is carried out when there is a legal vacuum or a void in the law by considering valid evidence and witnesses so that the judge's decision is in accordance with the principles of justice and benefits those seeking justice so that the resulting decision can become permanent jurisprudence.<sup>38</sup> The panel of judges in decision number 1655/Pdt.G/2020/PA.Pwt considered the evidence and witnesses presented by the plaintiff and defendant, and even held a field hearing (*descente*) to

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<sup>34</sup> John Zeleznikow and Dan Hunter, "Deductive, Inductive and Analogical Reasoning in Legal Decision Support Systems," *Information & Communications Technology Law* 4, no. 2 (January 1995): 141–59, <https://doi.org/10.1080/13600834.1995.9965715>.

<sup>35</sup> Vern R Walker, "Discovering the Logic of Legal Reasoning," *Hofstra Law Review* 35, no. 4 (2007), <https://scholarlycommons.law.hofstra.edu/hlr/vol35/iss4/2>.

<sup>36</sup> Markus Suryoutomo and Mahmuda Pancawisma Febriharini, "Penemuan Hukum (Rechtsvinding) Hakim Dalam Perkara Perdata Sebagai Aspek Mengisi Kekosongan Hukum," *Jurnal Ilmiah Hukum Dan Dinamika Masyarakat* 18, no. 1 (2020): 103–16, <http://dx.doi.org/10.56444/hdm.v18i1.1757>.

<sup>37</sup> Marek Zirk-Sadowski, "Interpretation of Law and Judges Communities," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 25, no. 4 (December 2012): 473–87, <https://doi.org/10.1007/s11196-011-9239-4>.

<sup>38</sup> Terezie Smejkalová, "Case Law and Collective Construction of Meaning," *Utrecht Law Review* 19, no. 2 (September 2023): 118–35, <https://doi.org/10.36633/ulr.833>.

prove the existence of the assets in question and provide an understanding of the interpretation of joint property, personal property, inheritance, and gifts based on the available evidence.

The next method, hermeneutics in legal interpretation, is carried out by understanding, interpreting, and applying legal regulations while considering the socio-cultural and historical contexts in which the regulations are used.<sup>39</sup> The panel of judges issued a ruling that reflects the values of justice and equality based on the socio-cultural values of society. Based on Article 5 of Law Number 48 of 2009 concerning Judicial Authority, judges and constitutional judges are required to investigate, comply with, and clearly understand the legal values and sense of justice that exist in society.

### **Basic Legal Analysis of Judicial Balance in Post-Death Property Disputes**

The case in Decision Number 1655/Pdt.G/2020/PA.Pwt was resolved by the panel of judges based on several legal instruments, namely, Law Number 1 of 1974, the Compilation of Islamic Law (KHI), and the Civil Code. The consistent use of these three regulations shows that the panel of judges sought to resolve the dispute based on the principle of *lex specialis* (KHI as the substantive law of Islamic marriage) and the principle of legal certainty in the Civil Code. The 50:50 division of property was decided in accordance with Article 96 of the KHI and Article 128 of the Civil Code, both of which regulate equal division in the separation of joint property. However, in the context of death, the use of Article 96 of the KHI becomes more dominant because it specifically regulates the consequences of joint property when one spouse dies. The following is a summary of the legal considerations used by the judges and their compatibility with the method of legal reasoning:

Table 1. Legal Considerations Used by Judges and Their Compatibility with Legal Reasoning Methods

Legal Reasoning Method	Legal Considerations
Deductive Method	1. Report on unsuccessful mediation (Article 4 paragraph (1) Perma No. 1 of 2016) 2. Report on unsuccessful the defendants' objection regarding the lawsuit being incomplete because it did not mention the deceased husband's siblings was deemed acceptable by the panel of judges

<sup>39</sup> Muhammad Ilham Hermawan, "GREGORY LEYH'S APPROACH TO CONSTITUTIONAL HERMENEUTICS: A CRITICAL ANALYSIS OF LEGAL HERMENEUTICS ACCORDING TO HANS-GEORG GADAMER," *Masalah-Masalah Hukum* 54, no. 2 (July 2025): 255–68, <https://doi.org/10.14710/mmh.54.2.2025.255-268>.

	<p>because the plaintiff had not been blessed with children during the marriage (Article 174 of the Islamic Family Law)</p> <ol style="list-style-type: none"> <li>3. The defendants' exception regarding the vague lawsuit due to the consolidation of lawsuits, the panel of judges ruled that this was true, but that the lawsuit regarding joint property was justified and fell under the jurisdiction of the Purwokerto Religious Court to examine, adjudicate, and settle. After considering these matters, the panel of judges decided that the defendants' exception could be partially accepted and the rest rejected (Indonesian Supreme Court Jurisprudence No. 962K/Pdt/95).</li> <li>4. Considering that marital property acquired individually or jointly during the marriage, regardless of who is registered as the owner, is referred to as joint property, whether tangible or intangible (Article 1 letter (f) of the KHI).</li> <li>5. In the event of divorce, each party is entitled to half of the joint property unless otherwise specified (Article 37 of the UUP and Article 97 of the KHI)</li> <li>6. Based on several joint assets claimed by the plaintiff, the defendants only acknowledged two assets, namely a Honda Freed car and a color television. Therefore, the panel of judges ruled that these assets were joint assets between the plaintiff and her late husband (Article 1925 of the Civil Code).</li> <li>7. Those who control the joint property are ordered to divide half of it to the deceased husband to be calculated as inheritance property (Article 97 of the Islamic Family Law)</li> <li>8. Based on the defendants' exception, the panel of judges declared the inheritance claim inadmissible, as well as the claim for personal property closely related to the inheritance (Supreme Court of the Republic of Indonesia Jurisprudence No. 962K/Pdt/95).</li> </ol>
<b>Inductive Method</b>	<ol style="list-style-type: none"> <li>1. The plaintiff's argument regarding joint property and personal property acquired during the marriage that has not been divided among heirs was supported by various pieces of evidence, some of which were refuted by the defendants. The plaintiff called witnesses to testify about what they had heard and seen firsthand.</li> <li>2. Based on the evidence and witness statements from both the plaintiff and the defendant, there is no valid proof of ownership of the land and buildings. Therefore, the panel of judges is of the opinion that there was never a sale and purchase of the land and house, only a grant from the defendant 1 to his late son with the customary requirement of handing over a sum of money. Thus, the panel of judges ruled that the house and building were not joint property</li> <li>3. Regarding the plaintiff's claim related to other joint property, the plaintiff was unable to prove it, and the witnesses were unable to convince the panel of judges, while the defendants were able to prove their legal ownership, so the claim for other joint property was rejected</li> </ol>

	4. Written evidence unrelated to the joint property case must be disregarded and need not be considered further, so the panel of judges only accepted part of the plaintiff's lawsuit and rejected the rest.
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Source: compiled by the author

Based on Table 1 above, it can be seen that the panel of judges in cases involving joint property and inheritance applied two complementary patterns of legal reasoning in formulating their arguments for the verdict. In deductive reasoning, judges move from general norms to specific facts by referring directly to positive legal provisions, the principles of joint property distribution in the Marriage Law and the Compilation of Islamic Law, and the jurisprudence of the Supreme Court to connect the legal status of joint property, the authority of the court, and the validity of the defendant's exception in inheritance lawsuits, thereby producing consistent decisions. Meanwhile, in inductive reasoning, judges prioritize the empirical evaluation of evidence and testimony to examine concrete facts, for example, distinguishing between unproven claims of ownership of land and buildings that are not legally valid and therefore not considered joint property, and rejecting claims to other properties based on a lack of convincing evidence. In practical terms, this pattern is similar to the mechanism of case-based reasoning, whereby judges often "draw general principles from specific facts" to enrich decisions beyond the normative text alone while remaining rooted in existing regulations.<sup>40</sup>

The combination of deduction and induction in the judge's considerations allows for a synthesis between normative rules and the reality of the trial, thereby strengthening the legitimacy of joint property dispute decisions amid the complexity of evidence and facts in real cases. The determination of joint property is highly dependent on strong evidence, and judges will not grant claims without valid evidence.<sup>41</sup> Harimurti's study found that the division of joint property in religious court practice generally follows the 50:50 principle of equality, especially if the evidence of ownership does not clearly distinguish between personal and joint property.<sup>42</sup> However, in some cases, differences in perception between religious leaders and the community can influence the understanding of joint property ownership.

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<sup>40</sup> Sorily Carolina Figuera Vargas, Camila Bernarda Cedeño Dávila, and Maxwell Andrés Andrés Camacho Balseca, "Métodos de Razonamiento Lógico-Jurí-dico Aplicados a Decisiones Judiciales: La Jurisprudencia Como Mecanismo de Poder Estatal," *Revista de La Facultad de Jurisprudencia RFJ*, ahead of print, December 5, 2017, <https://doi.org/10.26807/rfj.v1i2.23>.

<sup>41</sup> Suprianto, "Mediasi Pembagian Harta Bersama Dalam Putusan Pengadilan Agama Sleman Nomor 413/Pdt. G/2015/PA. Smn."

<sup>42</sup> Harimurti, "Perbandingan Pembagian Harta Bersama Menurut Hukum Positif Dan Hukum Islam."

Thus, in this case, the judges did not use social theory but adhered to positive law and formal evidence. Referring to previous studies, such as those conducted by Utami,<sup>43</sup> Yunita,<sup>44</sup> Aprindawati,<sup>45</sup> Alfiyani,<sup>46</sup> dan Nurul Ainun,<sup>47</sup> there are striking differences in the context of these cases. Previous studies have focused on surviving spouses, so that claims to joint property could be proven directly in court, and the division usually followed the 50:50 principle. In the context of post-mortem claims, claims are filed against the heirs, so the verification process becomes more complex, and the judge's decision tends to be selective, determining only those assets that are proven to be joint property. Thus, this study reveals a dynamic that is rarely discussed in Islamic family law, namely how judges navigate the overlap between joint property and inheritance and apply a method of legal reasoning that combines compliance with the law and facts on the ground to ensure substantive justice. These findings expand on the previous literature by emphasizing that in post-mortem disputes, strong evidence and proper procedures are crucial to the outcome of the decision and show that the application of contemporary *fiqh* through *ijtihad* and hermeneutic approaches can be relevant in modern judicial practice.

Judgment No. 1655/Pdt.G/2020/PA.Pwt demonstrates compliance with legal provisions regarding the division of joint property, which is divided fairly by considering the evidence submitted by both the plaintiff and the defendant. Therefore, the division of joint property in this decision is half for the surviving husband, namely the plaintiff as the wife, and the other half for the deceased husband, which is then determined as an inheritance.<sup>48</sup> Thus, Decision Number 1655/Pdt.G/2020/PA.Pwt has been decided and is legally binding and enforceable by each party, without any party being disadvantaged.

Thus, this study contributes to the development of contemporary Islamic family law by broadening the understanding of the reconstruction of the concept of joint property in

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<sup>43</sup> Maharani et al., *Penerapan Teori Keadilan Terhadap Pembagian Harta Bersama Pasca Perceraian*.

<sup>44</sup> YUNITA, “TINJAUAN YURIDIS TERHADAP PUTUSAN PENGADILAN AGAMA TERHADAP GUGATAN HARTA BERSAMA DAN IMPLIKASINYA DALAM HUKUM KELUARGA DI INDONESIA.”

<sup>45</sup> Aprindawati, Holijah, and Selma, “Analisis Pembagian Harta Bersama Setelah Perceraian Dalam Perspektif Kompilasi Hukum Islam Di Pengadilan Agama Pangkalan Balai (Studi Putusan Perkara No. 458/Pdt. G/2020/PA. Pkb).”

<sup>46</sup> Alfiyani and Muamar, “Hasil Putusan Pembagian Harta Bersama Dalam Pengadilan Agama Sumber Kelas 1A.”

<sup>47</sup> Marfuah and Erlina, “Legal Reasoning Hakim Dalam Menentukan Besaran Bagian Harta Bersama Dalam Perkara Perceraian (Studi Putusan Nomor 139/Pdt. G/2017/PA Takalar 1B).”

<sup>48</sup> Kukuh Pramono Budi et al., “Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing The Best Interests of The Child With A Focus on Residency,” *Syariat: Jurnal Hukum Dan Pemikiran* 23, no. 2 (March 2024): 245–66, <https://doi.org/10.18592/sjhp.v23i2.12278>.

the context of post-mortem, an issue that is rarely discussed but is increasingly relevant in modern judicial practices.<sup>49</sup> Through legal reasoning, the judge showed that the settlement of family disputes can no longer rely solely on a textual approach but requires a combination of deductive-inductive reasoning, systematic interpretation, and legal construction that is responsive to social dynamics.<sup>50</sup> This study also emphasizes the need for a substantive justice perspective that better protects women, given that many household assets are registered in the husband's name, making it difficult to prove joint property ownership in practice.<sup>51</sup> In addition, the findings of this study show how *fiqh* can be actualized through a hermeneutic approach and contemporary *ijtihad* to remain relevant to the development of the modern family.<sup>52</sup> Thus, this study not only enriches the academic literature but also provides a model of reasoning that can serve as a practical reference for judges in handling family disputes in the modern era.<sup>53</sup>

## Conclusion

Based on the findings of research on patterns of legal reasoning in cumulative decisions on joint property, personal property, and inheritance property No. 1655/Pdt.G/2020/PA.Pwt, it can be concluded that the panel of judges applied a complementary combination of deductive and inductive methods. The deductive method was used through systematic reference to legislation, jurisprudence, and relevant substantive and formal legal provisions, while the inductive method was evident in the assessment of the trial facts as revealed through evidence, witness testimony, and on-site inspections (*descente*). Through this reasoning, the panel of judges ruled that some of the plaintiffs' claims and some of the defendants' objections were admissible. Claims related to personal property and inheritance were declared inadmissible due to differences in the types of claims, which procedurally could not be combined and were deemed to contain formal defects. Claims regarding joint property were accepted, with the determination that only one car and one television set qualified as joint property between the plaintiff and her late husband. The division of joint property was determined proportionally, with each party receiving half; the

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<sup>49</sup> Ali Ummar Ritonga and M H SH, *Hukum Perdata Islam Di Negara Muslim* (Publica Indonesia Utama, 2024).

<sup>50</sup> Sudikno Mertokusumo, *Penemuan Hukum Sebuah Pengantar*, Liberty Yogyakarta, 2007.

<sup>51</sup> Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia: Antara Fiqh Munakabat Dan Undang-Undang Perkawinan*, Kencana, 2011.

<sup>52</sup> Wael B Hallaq, *An Introduction to Islamic Law* (Cambridge University Press, 2009).

<sup>53</sup> Zezen Zainul Ali and Mega Puspita, *Pembaharuan Hukum Keluarga Di Asia Tenggara: Dari Negara Mayoritas Sampai Minoritas Muslim* (Yogyakarta: Jejak Pustaka, 2023).

other half belonging to the husband was determined to be an inheritance property to be divided among the rightful heirs.

#### **Author contribution statement**

The first author, W.P.P, conceptualized the research topic, collected and analyzed the data, and drafted the manuscript. The second authors, S. M. and T. H., provided academic guidance, supervised the research process, and contributed to the refinement and finalization of the manuscript. All authors have read and approved the final version of the manuscript.

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#### **Data availability statement**

The decision data obtained can be accessed by the public on the Supreme Court's decision directory website. Decision No. 1655/Pdt.G/2020/PA.Pwt had not been published at that time; therefore, the author requested it directly from the panel of judges handling the case.

#### **Declaration of interests statement**

The first author conducted this research under the guidance of the second author as part of their final thesis project.

#### **Additional information**

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