
ASSESSMENT OF WITNESS TESTIMONIALS AS EVIDENCE IN CIVIL CASES

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ABSTRACT

The purpose of this study is to investigate and explain the judge's judgment of witness testimony as evidence in the judge's decision. The study employed a normative legal research technique with primary legal sources. In accordance to the author, this judge's reasoning is incorrect due to the fact that there is an oral agreement between the plaintiff and the defendant, which is confirmed by testimony from witnesses and expert witnesses, it cannot be classified as a breach of contract because it does not meet the requirements set forth in Article 58 of the Indonesian Civil Code. The rules and regulations of Article 58 of the Indonesian Civil Code are coercive legal provisions (dwingend recht). Article 58 of the Indonesian Civil Code contains three conditions: 1. The vows of marriage must be registered in the civil registry; 2. Civil registration officials must declare the marriage plans on the notice board; and 3. Claims/lawsuits must be filed within 18 months of the marriage announcement. The judge's assessment that the defendant had broken his vow was incorrect. As a result, the participation of the witness in providing information in collaboration with other witnesses cannot be used to prove the marriage commitment.

KEYWORDS *Marriage Pledge, Witness Statement, Judge's Assessment, and Judge's Decision*



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INTRODUCTION

Disputes arise within communities due to mutual trust that what is said will align with actions. If disputes arise, they can be resolved through reconciliation or through the legal system. Communities experiencing disputes can utilize community leaders to seek consensus-based solutions to their issues. If dispute resolution cannot be achieved through reconciliation, then the community may resort to legal action. The plaintiff files a lawsuit, which is then answered by the defendant.

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Subsequently, the plaintiff submits a reply to the defendant's answer, to which the defendant responds with a rejoinder. The plaintiff then presents conclusions, followed by the defendant presenting conclusions. After this process is complete, both parties are burdened with proving their claims before the judge. Evidence is the effort made by parties to resolve their disputes or to provide certainty about the occurrence of certain legal events, using evidence tools, so that a decision can be made by the court.

The Judge's assessment of evidence is conducted when the defendant's objection is not justified/rejected, and then the main case is examined, making the evidence crucial. However, if the defendant's objection is justified/accepted by the Judge, then the main case is not examined, and thus the evidence no longer plays a determining role. The Judge burdens the plaintiff or defendant with proving their claims so that the Judge can determine the truth regarding the disputed events.

The parties involved in the case can use five types of evidence:

1. Documents;
2. Witness statements;
3. Presumption;
4. Confession;
5. Oath.

During the trial, the parties present witnesses to testify, and these witnesses often provide many events in their testimony. Plaintiff's witnesses present many events, and if their statements are correlated/matched, they can establish many legal facts. Similarly, defendant's witnesses present many events, and if their statements are correlated/matched, they can establish many legal facts. If the Judge only correlates/matches the statements of the witnesses, it could result in an unfair decision because it may not accurately determine which events should be considered legal events.

In the Makale District Court Decision Number 52/Pdt.G/2020/PN. Mak., in divorce cases, witness testimony plays a crucial role in proving marital disputes. For a divorce to be granted, there must be sufficient grounds showing that the husband and wife cannot live harmoniously as spouses. Continuous disputes and arguments between the husband and wife, with no hope of reconciliation, are grounds for divorce. Therefore, to prove marital disputes, written evidence is required, and witness testimony plays a significant role. Similarly, in the Maumere District Court Decision Number 8/Pdt.G/2019/PN.Mme, witness testimony plays an important role in cases of promise of marriage.

Previous relevant research includes the juridical analysis of the strength of testimonial *de auditu* witness evidence in divorce proceedings in the Religious Courts of Madiun Regency, and the paradox of the obligation to testify in civil procedural law regulations, where witnesses are obliged to attend hearings if their place of residence is within the jurisdiction of the case, but are not required to attend if their place of residence is outside the jurisdiction of the case. The issue to be discussed in this writing is how the Judge evaluates witness testimony as evidence in their decision-making.

Witness testimony

Witness testimony is the oral and personal account given by a witness in court to provide certainty about the disputed events and is not a party to the case. The criteria for becoming a witness are that the person must have seen, heard, or experienced the events in dispute firsthand.

Assessment of Witness

Testimony Assessing whether someone's testimony can be trusted or not is not easy. Judges cannot avoid the possibility of false witnesses being presented by the parties in dispute, or even if someone's testimony is well-intentioned, there is a possibility of inaccuracies due to limitations in human memory, especially regarding events that occurred a long time ago. Therefore, judges are not strictly bound by the law. Judges are free to assess witness testimony as complete or adequate to ensure the truth of the events.

The consistency or coherence of witness testimonies is important because if a testimony stands alone and has no relation to other witness testimonies, it may be viewed as unreliable. Understanding the reasons and intentions behind a witness's testimony about the essence of the case is crucial for the judge to determine if the testimony is objective and has evidentiary value. Assessing someone's honesty as a witness and understanding the intentions contained therein is not easy, and judges may sometimes be swayed by witness testimonies and place trust in a witness who is actually lying, or conversely, be suspicious of an honest witness.

Truth Theory

To strengthen the judge's analysis, the judge needs to test witness testimony using truth theories. There are four theories/views on truth:

1. Coherence Theory.
2. Correspondence Theory.
3. Empirical Theory.
4. Pragmatism Theory. (Kattsoft, 2004: 176-182)

Regarding the discussion of this case approach, the writer only uses one theory, namely the Coherence Theory.

Coherence Theory

The coherence theory states that a proposition tends to be true if the proposition is related to other true propositions or if its meaning is related to our experiences. Let us consider an example of someone giving testimony in court. They express their views on what happened, and then they are questioned with the intention of examining them. The court attempts to establish whether there is coherence or lack of coherence in all their testimonies. Other witnesses are then called to describe what happened according to their observations. The more independent witnesses there are, whose testimonies correlate with each other, the higher the degree of truth that can be attributed to the depiction of events. Therefore, the coherence principle states that the degree of coherence is a measure of truth, and coherence with all facts provides absolute truth.

Thus, events described by witnesses that are coherent with other witnesses according to this coherence theory have a degree of truth. If a witness's testimony correlates with other witnesses, and is even strengthened by the testimony of

opposing witnesses and consistent with the plaintiff's evidence, for example, then the judge can believe the plaintiff's evidence because it has a high degree of truth.

Judge's Decision

What is included in the consideration part of the decision is nothing but the judge's reasons as accountability to the public for why they reached such a decision and to have objective value. In making a decision, only the essential matters should be included, so that the judge's decision is not too lengthy and broad. A lengthy and broad decision, which includes the claim, response, reply, counter-reply, and conclusion, will not be included in the Supreme Court's jurisprudence, which consists of only a few dozen pages.

Theoretical Foundation

In general, disputes arise in society due to mutual trust. This mutual trust is what creates problems because there is a difference between what is desired and what happens. This disparity of desires can lead to disputes if the parties involved are accompanied by emotional feelings. The disputing parties can resolve their disputes through peace, but if peace is not achieved, then it can be resolved through alternative dispute resolution and if not achieved, then it is resolved through the official state judiciary, in this case, the district court. Before filing a case in the district court, the plaintiff must first prepare the facts to be included in the lawsuit, and they must also prepare evidence to prove these facts so that they are clear and certain. If the judge uses the principles of civil procedure law, then the judge has acted in accordance with the procedure, thus creating procedural justice and legal certainty. To test the truth of witness testimony, the coherence theory by Louis O. Kattsoff is used.

In discussing the assessment of witness testimony as evidence in the judge's decision, the author provides a conceptual framework diagram as follows:

INPUT	PROCESS		OUTPUT
From the litigants (Plaintiff/Defendant)	The Parties prove by:	JUDGE	
		Apply:	Test with:
Facts	Witness statements	Legal Regulation	- The Theory of Truth from Louis O. Kattsoff - Coherence Theory
			The judge decided with : - Grant - Refuse - Not accepting lawsuits

The litigants file their lawsuits in court, then the judge burdens the litigants to prove their arguments, then the judge assesses the facts and applies the law by testing it with the theory of coherence and finally giving a verdict: grant the lawsuit in part or in full, reject the lawsuit, or not accept the lawsuit.

RESEARCH METHOD

The research method used is the normative legal research method. Normative legal research is a type of research that examines the norms in force, including laws that are relevant to the problem as legal source materials.

The normative legal research method uses secondary data, which includes primary, secondary, and tertiary legal materials. Primary legal materials are sourced from the Civil Code (KUHPerdata), Civil Procedure Code (RBg), and Law Number 1 of 1974 concerning Marriage. Secondary legal materials are sourced from the Decision of the Maumere District Court Number 8/Pdt.G/2019/PN.Mme regarding Promise of Marriage, books related to the role of witness testimony.

RESULT AND DISCUSSION

A. Judgment of the Maumere District Court

EXCEPTIONS:

- Rejecting the Defendant's exceptions;

MERITS OF THE CASE:

1. Granting part of the Plaintiff's claim;
2. Declaring that the agreement between the Plaintiff and the Defendant to marry in July 2018, as conveyed to the Plaintiff's family on March 16, 2018, is valid and binding;
3. Declaring that the Defendant has committed Breach of Promise by not marrying the Plaintiff in July 2018 as agreed.

B. Analysis of the Verdict of the Maumere District Court Number 8/Pdt.G/2019/PN.Mme

Analysis Based on Witness Testimony

Considering that, with respect to the Plaintiff's claims and the Defendant's responses as outlined above, the Panel of Judges is of the opinion that the agreement to marry in East Nusa Tenggara generally involves an oral agreement between a man and a woman, which is then conveyed to both families, and subsequent marriage arrangements involve the participation of both families. It is customary in East Nusa Tenggara for meetings between the families of both parties to discuss matters related to customs leading up to the marriage. It is an undisputed fact that on April 28, 2018, the Plaintiff's Family sent 4 (four) representatives, namely Yakobus Tome, Yoseph Rokus, Atom, and Vinsensius Pedor Gobang, to the Defendant's house, and there was an agreement to hold a meeting on May 10, 2018, at the Plaintiff's parents' house in Manunai. On May 8, 2018, the Defendant sent 3 (three) representatives, two of whom were witnesses Nikolaus Adang and witness Herman Yosef Huret, to the Plaintiff's Family and conveyed that the Defendant could not come to Manunai and requested that the meeting be moved to the Defendant's house in Lela, but this request was rejected by the Plaintiff's family on the grounds that they had already informed the extended family that the event would be held in Manunai.

Considering that the Defendant's actions, stating that they are not responsible on the grounds of mismatch and canceling the marriage with the Plaintiff by asking the Plaintiff's family to take back the Plaintiff and the customary items brought by the Plaintiff's family, constitute a breach of the agreement made between the Plaintiff, Defendant, and the Plaintiff's family.

According to the Plaintiff's witness testimony, a meeting was to be held to discuss the marriage on May 10, 2018, at the Plaintiff's parents' house in Manunai. On May 8, 2018, the Defendant sent 3 (three) representatives, two of whom were witnesses Nikolaus Adang and witness Herman Yosef Huret, to the Plaintiff's Family and conveyed that the Defendant could not come to Manunai and requested that the meeting be moved to the Defendant's house in Lela, but this request was rejected by the Plaintiff's family on the grounds that they had already informed the extended family that the event would be held in Manunai. According to the author, the discussion about the marriage was canceled because each party insisted on the meeting location, where the Plaintiff wanted the meeting on May 10, 2018, at the Plaintiff's parents' house in Manunai, while the Defendant wanted the meeting to be moved to the Defendant's house in Lela. Thus, the meeting to discuss the marriage on that date was canceled because each party remained steadfast in their position.

Regardless of the above matters regarding the promise of marriage, it can be read in article 58 of the Civil Code which states:

A promise of marriage does not give rise to the right to demand the performance of the marriage before the court, nor does it give rise to the right to demand compensation for costs, losses, and interest due to the non-fulfillment of the promise; all agreements for compensation in this case are void.

However, if this marriage notice has been followed by an announcement, then it can be the basis for demanding compensation for costs, losses, and interest based on the actual losses suffered by one party to their property as a result of the rejection of the other party; in this case, no consideration should be given to loss of profit. This claim expires after a period of eighteen months from the announcement of the marriage.

Based on the above article 58 of the Civil Code, a promise of marriage conveyed orally to another party, in this case, the Plaintiff, does not give the Plaintiff the right to sue the Defendant in court. Article 58 of the Civil Code is a mandatory legal provision. Article 58 of the Civil Code has 3 conditions: 1. the promise of marriage must be registered in the civil registry, 2. the civil registry officer announces the marriage plan on the notice board, 3. The claim/suit must not exceed the 18-month time limit from the announcement of the marriage. Thus, the judge's consideration stating that the defendant breached the promise is somewhat inaccurate.

CONCLUSION

Based on the research findings presented in the discussion, it can be concluded that the judge's considerations in the verdict of the Maumere District Court Number 8/Pdt.G/2019/PN.Mme, which established that the consensus between the Plaintiff and the Defendant to marry in July 2018 as conveyed to the Plaintiff's family on March 16, 2018, is valid and binding, and that the Defendant has committed a breach of promise for not marrying the Plaintiff in July 2018 as agreed upon.

According to the author, the judge's considerations are somewhat inaccurate because even though there was an oral agreement between the plaintiff and the defendant, reinforced by witness testimony and expert witnesses, it cannot be classified as a breach of promise because it does not meet the requirements as regulated in Article 58 of the Criminal Code. Article 58 of the Civil Code is a mandatory legal provision. Article 58 of the Civil Code has 3 conditions: 1. the promise of marriage must be registered in the civil registry, 2. the civil registry officer announces the marriage plan on the notice board, 3. The claim/suit must not exceed the 18-month time limit from the announcement of the marriage. The judge's consideration stating that the defendant breached the promise is somewhat inaccurate.

So, the role of witnesses here in providing testimony in relation to other witnesses cannot be used as evidence that the promise of marriage has been proven. Based on the above conclusion, the author's suggestion is that individuals who intend to marry should register their marriage promise at the Civil Registry so that their marriage agreement can be announced, thus obtaining legal protection.

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