



The Position of the Van Dading Deed in the Settlement of Joint Property Disputes: Study of Decision 901/Pdt.G/2023/PA. Tmg

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Abstract

This study aims to analyze the use of Van Dading deed in decision 901/Pdt.G/2023/PA. Tmg. Departing from the problem that the Van Dading Deed plays an important role in the settlement of joint property disputes in Indonesia, by providing legal certainty and an efficient settlement mechanism. This research is a doctrinal study with a case approach. This approach is used to analyze court decisions on Van Dading deeds. Legal materials are obtained from court decisions and to strengthen the analysis, this research also uses several scientific articles and research results related to this research issue in order to produce a sharp analysis. This study explores the legal position of Akta Van Dading in the Indonesian legal system, particularly in the context of joint property disputes. This deed, which is produced through mediation, has the same executorial power as a court judgment, ensuring that the agreement reached will be implemented without the need for additional litigation. A case example in this study is Decision 901/Pdt.G/2023/PA.Tmg, which demonstrates the effectiveness of Akta Van Dading in achieving an amicable and binding settlement. Through mediation facilitated by a mediator, the parties to the dispute were able to reach a fair and sustainable agreement. Thus, the Deed of Van Dading not only reduces the court's workload but also encourages faster settlements and lower costs. This research confirms the importance of Akta Van Dading as an essential legal instrument in achieving justice and legal certainty in the settlement of joint property disputes in Indonesia.

Keywords: Van Dading Deed, Dispute Resolution, Legal Certainty, Mediation



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Abstrak

Penelitian ini bertujuan untuk menganalisis penggunaan akta Van Dading dalam putusan 901/Pdt.G/2023/PA. Tmg. Berangkat dari masalah bahwa Akta Van Dading memainkan peran penting dalam penyelesaian sengketa harta bersama di Indonesia, dengan memberikan kepastian hukum dan mekanisme penyelesaian yang efisien. Penelitian ini merupakan kajian doktrinal dengan pendekatan kasus. Pendekatan ini digunakan untuk menganalisis putusan pengadilan tentang akta Van Dading. Bahan hukum diperoleh dari putusan pengadilan dan untuk memperkuat analisis, penelitian ini juga menggunakan beberapa artikel ilmiah dan hasil penelitian yang terkait dengan isu penelitian ini agar menghasilkan analisis yang tajam. Studi ini mengeksplorasi kedudukan hukum Akta Van Dading dalam sistem hukum Indonesia, khususnya dalam konteks sengketa harta bersama. Akta ini, yang dihasilkan melalui mediasi, memiliki kekuatan eksekutorial setara dengan putusan pengadilan, memastikan bahwa kesepakatan yang dicapai akan dilaksanakan tanpa memerlukan proses litigasi tambahan. Contoh kasus dalam penelitian ini adalah Putusan 901/Pdt.G/2023/PA.Tmg, yang menunjukkan efektivitas Akta Van Dading dalam mencapai penyelesaian damai dan mengikat. Melalui mediasi yang difasilitasi oleh mediator, para pihak dalam sengketa dapat mencapai kesepakatan yang adil dan berkelanjutan. Dengan demikian, Akta Van Dading tidak hanya mengurangi beban kerja pengadilan tetapi juga mendorong penyelesaian yang lebih cepat dan biaya yang lebih rendah. Penelitian ini menegaskan pentingnya Akta Van Dading sebagai instrumen hukum yang esensial dalam mencapai keadilan dan kepastian hukum dalam penyelesaian sengketa harta bersama di Indonesia.

Kata Kunci: Akta Van Dading, Penyelesaian Sengketa, Kepastian Hukum, Mediasi

Introduction

In recent decades, the increasing number of joint property disputes in Religious Courts has highlighted the need for more efficient and effective dispute resolution mechanisms. These disputes arise from various causes, including disagreements over the division of assets and complex family conflicts. Statistics from the Ministry of Religious Affairs show that more than 60% of divorce cases in Indonesia involve joint property disputes, emphasizing the importance of the Van Dading Deed as an alternative solution. The Van Dading Deed plays an essential role in providing a legal framework for resolving disputes related to joint property, offering the parties a structured approach to reaching an agreement outside of the traditional court system.¹

Arbitration and mediation have emerged as effective methods for resolving disputes, allowing parties to reach a voluntary agreement with the help of a neutral third party. While arbitration involves a select body making binding decisions on a particular dispute, mediation focuses on facilitating voluntary agreements between the warring parties. These alternative dispute resolution mechanisms have shown promise in accelerating conflict

¹ Ni M I Maharani, Anak Agung Sagung Laksmi Dewi, and Luh P Suryani, 'Penyelesaian Sengketa Para Pihak Yang Telah Terikat Dalam Perjanjian Arbitrase (Studi Kasus Di Pengadilan Negeri Denpasar)', *Jurnal Analogi Hukum* 2, no. 1 (2020): 119–23, <https://doi.org/10.22225/ah.2.1.1615.119-123>.

resolution and reducing the burden on the formal court system, which is in line with the need for a more efficient dispute resolution process.²

Exploring non-litigation dispute resolution methods, such as direct negotiation between the warring parties or third-party mediation, offers an alternative to traditional court litigation. By engaging in a non-litigation approach, the parties to a dispute can seek mutually agreed solutions beyond the formal legal process, promoting flexibility and tailored resolutions for specific conflicts.³

To reach a fair decision based on the applicable legal provisions in resolving joint property disputes in the Religious Court, various considerations must be considered. One relevant aspect is the position of the Van Dading Act in the dispute settlement process. The Van Dading Deed is an agreement made before a Notary with the force of law binding the parties involved.⁴ In the context of resolving joint property disputes, the Van Dading Deed can be the basis of the authority to act for parties who want to transfer common property; this shows that the Van Dading Deed has a significant role in determining the rights and obligations related to the common property that is the object of the dispute.

The Religious Court has absolute authority in resolving disputes related to the economic aspect of sharia law.⁵ Decisions taken by the Religious Court have binding legal force in resolving joint property disputes, including those related to the division of common property. The Religious Court also has a vital role in handling inheritance disputes, which can have negative impacts, such as the breakdown of friendships or quarrels.⁶

Mediation is also one of the practical approaches to resolving joint property disputes. Mediation can help the parties involved in a dispute reach an agreement without going through the litigation process in the Religious Court.⁷ The results of mediation that get a deal can be recognized and enforced as a deed of peace, which the Religious Court will then inaugurate.⁸ Thus, mediation is vital in resolving joint property disputes more

² Yuyut Prayuti, 'Efektivitas Mediasi Dan Arbitrase Dalam Penyelesaian Sengketa Konsumen Kesehatan', *Syntax Idea* 6, no. 3 (2024): 1533–44, <https://doi.org/10.46799/syntax-idea.v6i3.3165>.

³ Fuqoha Fuqoha, 'Tinjauan Yuridis Kekuatan Hukum Penyelesaian Perselisihan Non-Litigasi Dalam Perselisihan Hubungan Industrial', *Indonesian State Law Review (Islrev)* 2, no. 2 (2020): 119–37, <https://doi.org/10.15294/islrev.v2i2.37681>.

⁴ Alifia Permata Adiani, 'Analisis Yuridis Akta Perjanjian Pengikatan Jual Beli Yang Objeknya Merupakan Harta Bersama (Studi Kasus Putusan Pengadilan Negeri Sleman Nomor 221/PDT.G.2019/PN.SMN)', *JURNAL EQUITABLE* 6, no. 2 (28 December 2021): 103–20, <https://doi.org/10.37859/jeq.v6i2.3219>.

⁵ Muhamad Izazi Nurjaman and Doli Witro, 'Penyelesaian Sengketa Ekonomi Syariah Menurut Fatwa Dewan Syariah Nasional-Majelis Ulama Indonesia (DSN-MUI)', *Al-Huquq: Journal of Indonesian Islamic Economic Law* 4, no. 1 (30 June 2022): 35–62, <https://doi.org/10.19105/alhuquq.v4i1.6107>.

⁶ Abdul Malik Wardiana, 'Peran Aktif Hakim Dalam Perkara Sengketa Waris Di Pengadilan Agama Sorong', *Muadalah: Jurnal Hukum* 1, no. 2 (25 November 2021): 73–88, <https://doi.org/10.47945/muadalah.v1i2.646>.

⁷ Yusriana Yusriana, 'Analisis Hukum Terhadap Penyelesaian Sengketa Harta Bersama Menurut Kompilasi Hukum Islam', *Juripol* 5, no. 2 (18 August 2022): 68–78, <https://doi.org/10.33395/juripol.v5i2.11690>.

⁸ Yoyon Edi, 'Studi Terhadap Efektivitas Mediasi Dalam Menyelesaikan Perkara Perceraian Di Pengadilan Agama Kelas I B Argamakmur Bengkulu Utara', *Jurnal Panji Keadilan: Jurnal Ilmiah Nasional Mahasiswa Hukum* 1, no. 1 (1 January 2018): 122–36, <https://doi.org/10.36085/jpk.v1i1.249>.

collaboratively and peacefully. In addition to mediation, the peace deed is crucial in resolving joint property disputes in the Religious Court. If the parties involved in the disagreement manage to reach an agreement through mediation, the contract will be formalized as a peace deed.⁹ This peace deed will then become a binding legal basis for the parties related to the division of common property. Thus, peace deeds play an essential role in resolving common property disputes peacefully and effectively.

In joint property disputes, especially those that occur during divorce, the Religious Court plays a vital role in resolving disputes related to the division of common property.¹⁰ Thus, the Religious Court becomes an institution with the authority and responsibility to resolve joint property disputes carefully and wisely. Considering these various aspects, the Religious Court's settlement of joint property disputes is expected to run effectively and provide justice for all parties involved. In the Indonesian legal system, dispute resolution through mediation has become one of the alternatives that is increasingly popular among the public.¹¹ This mediation process offers faster resolution and lower costs than litigation processes and allows the parties to reach a mutually beneficial and sustainable agreement. One of the final forms of mediation is the Van Dading Deed, a deed of peace made by the parties to the dispute and ratified by a judge. This deed has the same legal force as a court decision.

Relevant research to this study is a study by Pratama, Mahendrawati, and Suryani, which discusses the settlement of disputes over the division of common property used as debt collateral through a peace deed. This study highlights that common property used as debt collateral has a special position in dispute resolution, where it cannot be used as an object of ownership dispute without involving the security holder.¹² In addition, the research by Nanda, Rato, and Azizah is also relevant because it discusses the binding power of the van Vergelijk deed for the division of joint property based on the Civil Code. This research can provide a deeper understanding of the legal force of the deed of division of common property in the context of civil law.¹³ Furthermore, Murniati's research is also relevant because it discusses the relevance and legal force of peace deeds in resolving disputes in the economic sector. Although the focus is not specifically related to common property, this

⁹ Edi.

¹⁰ Saifur Rohman, 'Analisis Putusan No. 0938/Pdt.g/2017/Pa.Jepr Tentang Harta Akibat Perceraian', *Isti`dal : Jurnal Studi Hukum Islam* 8, no. 1 (3 November 2021): 68–92, <https://doi.org/10.34001/istidal.v8i1.2589>.

¹¹ Burhan Latip, Ahmad Muhamajir, Elly Lestari, dan Muhammad Farid Hasan. 2024. "Penyelesaian Sengketa Kewarisan Melalui Mediasi: Jalan Terbaik Menyelesaikan Masalah". *Mawaddah: Jurnal Hukum Keluarga Islam* 1 (1):58-67. <https://doi.org/10.52496/mjhki.v1i1.4>.

¹² I Gede Arya Agus Pratama, Ni Luh Mahendrawati, and Luh Putu Suryani, 'Penyelesaian Sengketa Pembagian Harta Bersama Yang Dijadikan Jaminan Hutang Melalui Akta Perdamaian', *Jurnal Analogi Hukum* 2, no. 2 (20 July 2020): 165–69, <https://doi.org/10.22225/ah.2.2.1915.165-169>.

¹³ Pintami Nanda, Dominikus Rato, and Ainul Azizah, 'Kekuatan Mengikat Akta Van Vergelijk Pembagian Harta Bersama Berdasarkan Kitab Undang-Undang Hukum Perdata', *JURNAL RECHTENS* 11, no. 2 (9 December 2022): 205–24, <https://doi.org/10.56013/rechtens.v11i2.1446>.

study can provide a broad perspective on the role of peace deeds in dispute resolution, which can also be applied in the context of joint property disputes.¹⁴

This research can provide a deeper understanding of the legal force of the deed of division of common property in the context of civil law. Furthermore, the research by Murniati is also relevant because it discusses the relevance and legal force of peace deeds in resolving disputes in the economic sector. Although the focus is not explicitly related to common property, this study can provide a broad perspective on the role of peace deeds in dispute resolution, which can also be applied in the context of joint property disputes. Joint property disputes are often a complex issue in family law. Resolving these disputes through litigation in court can take significant time and cost. Alternative dispute resolution out of court, such as through mediation that resulted in the Van Dading Deed offers a faster and more efficient solution. This study focuses on the legal analysis of the position of the Van Dading Act in the settlement of joint property disputes by referring to Decision 901/Pdt.G/2023/PA.Tmg. With a solid legal position and executory power equivalent to a court decision with permanent legal force, the Van Dading Deed is an essential legal instrument in achieving fair and sustainable settlement of joint property disputes in the Indonesian legal system.

Definition and Concept of the Van Dading Act

The history of the Van Dading Deed can be traced back to the Dutch colonial era when the concept was first introduced as part of the European civil law system. The Van Dading Act, or the "comparative treaty act," has evolved into a widely recognized legal instrument in many countries, including Indonesia. A comparative study between the use of the Van Dading Deed in Indonesia and European countries reveals significant differences in implementation and effectiveness.¹⁵

In practice, the Van Dading Deed in Indonesia allows the parties to the dispute to reach a peaceful agreement with the help of mediation, which is then formalized as a deed with executory power. This contrasts with some European countries where legal procedures and recognition may be stricter or different regarding execution and enforceability. In Europe, the Van Dading Deed is often more structured and may require the approval of a court or other legal authority to be recognized and enforced.

These differences reflect how adapting colonial law may vary according to local culture and law context. In Indonesia, the Van Dading Deed has proven to be a flexible and valuable tool in reducing the burden of courts and speeding up the dispute resolution process. Meanwhile, in European countries, although the basic concept is similar, implementing and using the Van Dading Deed tends to be more formal and bound by stricter legal rules. The study highlights the importance of understanding the local context in

¹⁴ Rilda Murniati, 'Relevansi Dan Kekuatan Hukum Akta Perdamaian Dalam Penyelesaian Sengketa Di Bidang Ekonomi', *Fiat Justicia Jurnal Ilmu Hukum* 9, no. 1 (2016), <https://doi.org/10.25041/fiatjusticia.v9no1.590>.

¹⁵ M A D Syahputra, Sariyatun Sariyatun, and Deny T Ardianto, 'Peranan Penting Sejarah Lokal Sebagai Objek Pembelajaran Untuk Membangun Kesadaran Sejarah Siswa', *Historia Jurnal Pendidikan Dan Peneliti Sejarah* 4, no. 1 (2020): 85-94, <https://doi.org/10.17509/historia.v4i1.27035>.

adapting and implementing international legal instruments and how innovation and flexibility in legal approaches can improve the effectiveness of dispute resolution.

The Van Dading Deed is a document resulting from a mediation process facilitated by a court or notary. This document contains a peace agreement between the parties to the dispute and has the same executory force as the court decision. In Indonesian law, the Van Dading Deed is recognized as a binding legal instrument and can be used as a basis for execution if one of the parties does not comply with the agreement. The Van Dading Deed is a document resulting from a mediation process facilitated by a court or notary, which contains a peace agreement between the parties to the dispute and has executory force equivalent to a court decision. In Indonesian law, the Van Dading Deed is recognized as a binding legal instrument and can be used as a basis for execution if one of the parties does not comply with the agreement. Successful conflict mediation often occurs after trust has been reached between the parties to the dispute, allowing them to reach an agreement that benefits all parties and improves the well-being of the communities concerned.¹⁶

The mediation process in court often involves mediators, both judges and non-judges, tasked with facilitating dialogue between the parties to the dispute. The absence of non-judge mediators in some courts, such as the Sungai TFull Religious Court, can be an obstacle because judge mediators have to divide time between mediation duties and judges' duties at trial, which can affect the effectiveness of the mediation process.¹⁷ . Nonetheless, dispute resolution through mediation, both inside and outside the court, can still reach a legally recognized peace agreement, as reflected in the Van Dading Act. The importance of mediation in dispute resolution is also seen in handling civil cases in court. Despite the various obstacles during the mediation process, both in and out of court, the parties can often reach a peace agreement that is then used as the basis for the Van Dading Deed.¹⁸ Peace agreements resulting from mediation, both inside and outside the court, can effectively resolve disputes and promote peace between the parties to the conflict.

In Indonesian law, the Van Dading Deed also has the same legal force as a court decision, so it can be used as a basis for execution if one party does not comply with the agreement contained in it. This shows the importance of the Van Dading Deed as a binding legal instrument and can guarantee the implementation of peace agreements between the parties to the dispute.¹⁹ Thus, the Van Dading Deed is essential in upholding justice and resolving disputes peacefully in the Indonesian legal system. In Indonesia's dispute resolution context, especially in out-of-court dispute resolution cases, the Van Dading Deed resulting from mediation plays a vital role in upholding justice and creating peace between the parties. With the same executory force as the court's ruling, the Van Dading Deed

¹⁶ Akhyar Tarfi and Ikhwan Amri, 'Reforma Agraria Sebagai Jalan Menuju Perdamaian Yang Berkelanjutan Di Aceh', *Bhumi Jurnal Agraria Dan Pertanahan* 7, no. 2 (2021): 210-25, <https://doi.org/10.31292/bhumi.v7i2.509>.

¹⁷ Agustini Andriani, 'Peran Dan Kontribusi Mediator Dalam Mediasi Sengketa Perceraian Di Pengadilan Agama Sungai Penuh', *Syntax Idea* 6, no. 3 (2024): 1498-1506, <https://doi.org/10.46799/syntax-idea.v6i3.3130>.

¹⁸ Ivy P W Ng, 'Pelaksanaan Upaya Perdamaian Dalam Perkara Perdata Studi Kasus Perkara Pengadilan Negeri Brebes Nomor 28/Pdt.G/2019/PN BBS', *Jurnal Hukum Politik Dan Kekuasaan* 3, no. 2 (2023): 147-59, <https://doi.org/10.24167/jhpk.v3i2.6446>.

¹⁹ Tarfi and Amri, 'Reforma Agraria Sebagai Jalan Menuju Perdamaian Yang Berkelanjutan Di Aceh'.

provides assurance that the peace agreement reached will be complied with by all parties concerned. Therefore, the Indonesian legal system must continue to encourage the use of mediation and the creation of the Van Dading Deed as an effective means of resolving disputes.

The Van Dading Deed resulting from mediation plays a vital role in upholding justice and creating peace between the parties to the dispute. With the same executory force as the court's ruling, the Van Dading Deed provides assurance that the peace agreement reached will be complied with by all parties concerned. Therefore, the Indonesian legal system must continue to encourage the use of mediation and the creation of the Van Dading Deed as an effective means of resolving disputes. With the continued encouragement for conciliation and the use of the Van Dading Deed, it is hoped that a legal system can be created that is not only fast and efficient in resolving disputes but also able to minimize the burden on the courts and strengthen the sense of justice and legal certainty among the community. These initiatives can also help reduce costs typically incurred in lengthy and complex litigation processes, providing significant economic benefits for the parties to the dispute. Thus, mediation and the Van Dading Deed both play a role in resolving disputes more peacefully and harmoniously and contribute to strengthening the Indonesian legal system.

Legal Status of Van Dading Deed

The Van Dading Deed is necessary in the Indonesian legal system. According to Article 130 of the HIR and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, agreements are reached through mediation. The Van Dading Deed outlines that they have the same legal force as court decisions. This means the Van Dading Deed can be executed immediately without a lengthy court process.

The mediation process in court, as stipulated in Supreme Court Regulation Number 1 of 2016, plays a vital role in resolving disputes. Mediation allows the parties involved in the conflict to reach a peace agreement without going through a lengthy and costly trial process. With the existence of the Van Dading Deed as a result of mediation, the agreement reached can be immediately executed, providing legal certainty for the parties to the dispute.²⁰

The Van Dading Deed gained legal force through several regulations, including Article 130 of the HIR and Supreme Court Regulation Number 1 of 2016. These two regulations emphasize the importance of mediation as a fast and efficient dispute resolution method that reduces the burden on the court. Mediation is an attractive alternative because the Van Dading Deed has executory power equivalent to a court decision, providing legal certainty for the parties involved.²¹

In this context, mediation offers a more flexible and participatory process, allowing the parties to reach a mutually beneficial agreement without undergoing lengthy and costly formal procedures. With executory power, the mediation results outlined in the Van Dading

²⁰ Krisna PutraAdi, 'Implementasi Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Mediasi Dalam Perkara Perceraian di Pengadilan Agama Selong', *JURIDICA : Jurnal Fakultas Hukum Universitas Gunung Rinjani* 3, no. 2 (23 May 2022): 3-21, <https://doi.org/10.46601/juridica.v3i2.203>.

²¹ Ariska S Mulyanti et al., 'Penyelesaian Perkara Perdata Melalui Proses Mediasi', *Jurnal Ilmiah Dinamika Hukum* 22, no. 2 (2023): 1-7, <https://doi.org/10.35973/jrs.v3i02.3238>.

Deed can be implemented immediately, ensuring that the agreement has a direct and accountable legal impact. This provides legal protection as strong as a court ruling that has been inkraft, ensuring that the parties comply with the outcome of the mediation and avoid potential further disputes. Therefore, the Van Dading Deed not only accelerates the resolution of conflicts but also strengthens the parties' trust in the legal system and the mediation process itself.

Implementing this regulation demonstrates the commitment of the Indonesian legal system to promoting peaceful and effective dispute resolution and increasing efficiency and justice in law enforcement. By acknowledging the executory power of the Van Dading Deed, this regulation ensures that the outcome of mediation has a robust and reliable standing, making mediation the first choice in resolving joint property disputes and various other types of disputes. Supreme Court Regulation Number 1 of 2016 concerning Mediation in Court emphasizes the importance of the mediation process by stipulating that a decision can be declared null and void if the parties do not undergo the regulated mediation procedure.²² This shows that mediation is considered a step that must be passed before entering the court process. In addition, the Van Dading Deed also has executory power that allows the enforcement of judgments by state instruments, providing legal certainty for the parties involved in the dispute.²³ Thus, the Van Dading Deed not only speeds up dispute resolution but also offers legal certainty through its executory power.

Thus, through the combination of the legal force of Article 130 of the HIR, Supreme Court Regulation Number 1 of 2016, and the executive power of the Van Dading Deed, mediation becomes an attractive option in dispute resolution by providing legal certainty and efficiency in dispute resolution. The importance of mediation in dispute resolution is also reflected in a study that examines the implementation of mediation in resolving civil cases at the South Jakarta District Court. The survey results show that mediation effectively resolves civil disputes and agreements reached through mediation, which can be the basis for the Van Dading Deed, which has solid legal force.²⁴ Thus, mediation in court is an effective means of upholding justice and achieving peace between the parties to the dispute.

Functions and Purposes of the Van Dading Act

The primary function of the Van Dading Act is to resolve disputes peacefully and efficiently. This deed has a clear purpose in conflict resolution, where the agreement has the same legal force as a court decision. Thus, the Van Dading Deed became an effective instrument in upholding justice and creating peace between the parties to the dispute. One of the purposes of using the Van Dading Deed is to provide legal certainty for the parties to the conflict. With the Van Dading Deed, peace agreements reached through mediation can be

²² Mulyanti et al.

²³ Gilang Favian Pratama and Ahmad Suryono, 'Analisis Hak-Hak Anak Pasca Perceraian Orangtua Menurut Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak', *Journal of Contemporary Law Studies* 1, no. 1 (16 November 2023), <https://doi.org/10.47134/lawstudies.v1i1.1946>.

²⁴ Satria Ramadhany, Rosdiana Rosdiana, and Syafrudin Makmur, 'Efektivitas Pelaksanaan Mediasi Dalam Penyelesaian Perkara Perdata Di Pengadilan Negeri Jakarta Selatan (Analisis Peraturan Mahkamah Agung Nomor 01 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan)', *Journal of Legal Research* 2, no. 3 (2021), <https://doi.org/10.15408/jlr.v2i3.17611>.

immediately executed without a lengthy court process. This provides clarity and certainty for the parties related to the implementation of the agreed-upon deal.²⁵ In addition, the Van Dading Deed also aims to create sustainable dispute resolution. With an effective dispute resolution mechanism through the Van Dading Deed, it is hoped that the conflicts that occur can be resolved peacefully and will not cause greater friction in the future. This reflects efforts to create long-term peace among the parties to the dispute.²⁶

The Van Dading Deed is a peaceful and efficient solution for the parties to the dispute. In addition, this deed also serves as a preventive instrument that can prevent possible conflicts in the future by providing a clear and binding framework. Murniati's studies show that using the Van Dading Deed can increase public trust in the legal system. This happens because the Van Dading Deed provides better legal certainty and protection, thus creating a more reliable legal environment.²⁷ With the executory power possessed by the Van Dading Deed, the parties involved in the dispute can obtain immediate and effective legal certainty. This deed assures that decisions reached through mediation will be strictly implemented, thereby minimizing the risk of non-compliance with the agreements reached.²⁸

The Van Dading Deed provides legal protection for the parties involved in the dispute. It has the same legal force as a court decision, so the parties can feel safe that the agreement reached will be respected and complied with by all relevant parties. This provides solid legal protection for the parties in resolving their disputes.²⁹ The Van Dading Deed also aims to facilitate the dispute resolution process in a more collaborative way. By involving mediation and creating the Van Dading Deed, the parties to the dispute have the opportunity to discuss and reach an agreement that benefits all parties. This reflects a more inclusive and collaborative approach to conflict resolution.³⁰ Thus, the Van Dading Deed is essential in the Indonesian legal system. Through its precise functions and objectives, it is an effective instrument in resolving disputes peacefully, providing legal certainty, creating sustainable peace, providing legal protection, and facilitating the dispute resolution process collaboratively. Thus, the Van Dading Deed became one of the pillars of maintaining justice and peace in society.

²⁵ Siddharth Iyengar et al., 'Baseline Differences in Characteristics and Risk Behaviors Among People Who Inject Drugs by Syringe Exchange Program Modality: An Analysis of the Miami IDEA Syringe Exchange,' *Harm Reduction Journal* 16, no. 1 (2019), <https://doi.org/10.1186/s12954-019-0280-z>.

²⁶ Kartika Kismawardani, 'Relevansi Notaris Sebagai Pihak Pelapor Dalam Upaya Pencegahan Tindak Pidana Pencucian Uang', *Notarius* 16, no. 3 (2022): 1321-32, <https://doi.org/10.14710/nts.v16i3.42407>.

²⁷ Edwin Buitelaar and Niels Sorel, 'Between the Rule of Law and the Quest for Control: Legal Certainty in the Dutch Planning System', *Land Use Policy*, 2010, <https://doi.org/10.1016/j.landusepol.2010.01.002>.

²⁸ Nanda, Rato, and Azizah, 'Kekuatan Mengikat Akta Van Vergelijk Pembagian Harta Bersama Berdasarkan Kitab Undang-Undang Hukum Perdata'.

²⁹ Iwa Kartika Karpi et al., 'Jurnal Ilmiah Administrasi Publik (JIAP) Implementasi Program Pencegahan Perkawinan Usia Anak Di Kabupaten Lombok' 10, no. 1 (2024): 31-39.

³⁰ Alya R R Putri, Yunanto Yunanto, and Novira M Sukma, 'Analisis Yuridis Terhadap Penulisan Akta Notaris Dalam Sela-Sela Kosong Buku Pendaftaran Akta', *Notarius* 14, no. 2 (2021): 666-80, <https://doi.org/10.14710/nts.v14i2.43719>.

Table 1.1. Contents of Decision 901/Pdt.G/2023/PA. Tmg

Chronology of the Case	Object of Dispute	Mediation Results / Verdicts
<p>In the case of a joint property dispute between Rini Fatmawati Binti Slamet Budiyono and Yasin Bin Ismail, mediation was held on September 12, 2023, at the Temanggung Religious Court. Rini Fatmawati, as the first party, and Yasin Bin Ismail, as the second party, together with Winarti Binti Yatmono, as the third party, agreed to resolve the dispute amicably. This mediation process was facilitated by mediator Muhamad Imron, S.Ag., M.H. The parties decided to end the conflict through deliberation and consensus, then agreed on settling their joint property.</p>	<p>The object of dispute in this case includes several assets that are recognized as joint property (gonggong):</p> <p>A plot of land and a two-storey building with a land area of 64 m², located in Krajan Hamlet, RT. 02 RW. 02, Salamsari Village, Kedu District, Temanggung Regency. The building has household furniture, including wooden chairs, refrigerators, TVs, TV cabinets, and various kitchen utensils.</p> <p>A plot of kapling land measuring 54 m² in the exact location.</p>	<p>In mediation, the parties agreed that the joint property would be handed over to their children due to their marriage. Land, buildings, and household furniture will be handed over to the first child, Arya Bagus Satya, after age 21. The kapling land will be handed over to the second child, Rangga Bagus Yasriki, after the age of 21. Before the surrender, the second party and third party have the right to use the property as a place of residence. The parties also agreed to revoke the confiscation in the lawsuit and bear all the case costs charged to the first party.</p> <p>On September 21, 2023, the Temanggung Religious Court ratified this peace agreement into the Van Dading Deed. The panel of judges, consisting of H. Masrukhin, S.H., M.Ag, Foead Kamaludin, S.Ag, and Ertika Urie, S.H.I., M.H.I., issued a decision requiring the parties to comply with the agreement and charging the first party a case fee of Rp. 245,000. This decision was pronounced in a hearing open to the</p>

		public and has permanent legal force, providing legal certainty and resolving disputes officially.
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The Peace Deed in the settlement of joint property disputes in the Religious Court is an important step after the mediation process. In this process, the parties involved reach an agreement on the substance of the dispute, which is then formulated in a peace agreement.³¹ The mediation process is often necessary to settle joint property disputes in the Religious Court, especially in the context of the gono-gini property.³²

In this case, the joint property dispute between Rini Fatmawati Binti Slamet Budiyono and Yasin Bin Ismail was resolved through a mediation that resulted in a peace agreement. Some of the critical points in the agreement are:³³

1. Determination of Joint Property: The parties agree to designate land and buildings, household furniture, and kapling land as joint property.
2. Division of Joint Property: Joint property is handed over to children resulting from marriage with specific provisions regarding its use until the children reach adulthood.
3. Use and Maintenance of Property: Before the property is handed over, the second party and third party are granted the right to use it as a residence for a certain period.

Case 901/Pdt.G/2023/PA. Tmg involved a joint property dispute between the parties: Yasin bin Ismail, Rini Fatmawati, and Winarti binti Yatmono. Mediator Muhammad Imron, S.Ag., M.H. led mediation, which resulted in a peace agreement based on deliberation and consensus. The parties agreed to ask the presiding judge to incorporate this Peace Treaty into their consideration and decision.

In addition, the Van Dading Deed also aims to facilitate the dispute resolution process more collaboratively. By involving mediation and creating the Van Dading Deed, the parties to the dispute have the opportunity to discuss and reach an agreement that benefits all parties. This reflects a more inclusive and collaborative approach to conflict resolution.³⁴

In this case, the joint property dispute between Rini Fatmawati Binti Slamet Budiyono and Yasin Bin Ismail was resolved through a mediation that resulted in a peace agreement. Some of the critical points in the agreement are the determination of joint property, where the parties agree that land and buildings, household furniture, and kapling

³¹ Pratama, Mahendrawati, and Suryani, 'Penyelesaian Sengketa Pembagian Harta Bersama Yang Dijadikan Jaminan Hutang Melalui Akta Perdamaian'.

³² Ishlah Farid, 'Efektifitas Mediasi Dalam Penyelesaian Perkara Harta Bersama Di Pengadilan Agama Batulicin', *Al-Mabsut Jurnal Studi Islam Dan Sosial* 17, no. 2 (2023): 191-202, <https://doi.org/10.56997/almabsutjurnalstudiislamdanocial.v17i2.1030>.

³³ Putusan Pengadilan Agama Temanggung 901/Pdt.G/2023/PA.Tmg' (2023), <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaee58521e621a16a575313434303231.html>.

³⁴ Putri, Yunanto, and Sukma, 'Analisis Yuridis Terhadap Penulisan Akta Notaris Dalam Sela-Sela Kosong Buku Pendaftaran Akta'.

land are recognized as common property. In addition, the agreement also includes the division of joint property, which is handed over to the children of the marriage with specific provisions regarding its use until the children reach adulthood. The agreement further regulates the use and maintenance of the property for a certain period before it is entirely handed over, where the second party and third party are granted the right to use the property as a residence. The mediation process that resulted in this agreement shows the effectiveness of the Van Dading Deed in resolving disputes peacefully and efficiently and providing legal certainty for the parties involved. With a clear and detailed agreement, the Van Dading Deed ensures that the rights and obligations of each party are protected and adequately implemented, avoiding potential conflicts in the future. The position of the Van Dading Deed, equivalent to a decision with legal force, still guarantees that the agreement reached will be recognized and implemented with complete legal certainty.

In the case study mentioned, the parties have voluntarily agreed to end their dispute over common property through mediation and are willing to abide by the terms of the Peace Agreement. It demonstrates a proactive approach to resolving conflicts and highlights the effectiveness of alternative dispute resolution mechanisms, such as mediation, in addressing controversial issues related to joint property ownership. By adhering to the principles of cooperation and mutual understanding, the parties in this case have exemplified their commitment to achieve a harmonious resolution to solve problems. Thus, the Van Dading Deed is vital in the Indonesian legal system. Through its precise functions and objectives, the Van Dading Deed is an effective instrument in resolving disputes peacefully, providing legal certainty, creating sustainable peace, providing legal protection, and facilitating the dispute resolution process collaboratively. Thus, the Van Dading Deed became one of the pillars of maintaining justice and peace in society.

Legal Analysis: The Position of the Van Dading Deed in the Indonesian Legal System

The Van Dading Deed's position in the Indonesian legal system is critical because it provides efficient and effective dispute resolution solutions. This deed is recognized as a binding legal document and has executory force. This is reflected in Article 130 of the HIR, which stipulates that an agreement reached through mediation and outlined in the Van Dading Deed has the same legal force as a court decision. The Van Dading Deed's primary function in dispute resolution is to resolve conflicts peacefully and efficiently. With the Van Dading Deed, the parties to the dispute can reach a legally recognized peace agreement without the need to go through a lengthy court process. This provides a quick and effective solution to resolving disputes.³⁵

The position of the Van Dading Deed in the Indonesian legal system is critical because it provides efficient and effective dispute resolution solutions. This deed is recognized as a binding legal document and has executory force. This is reflected in Article 130 of the HIR, which stipulates that an agreement reached through mediation and outlined in the Van Dading Deed has the same legal force as a court decision. In dispute resolution, the Van Dading Deed's primary function is to resolve conflicts peacefully and efficiently. With the Van Dading Deed, the parties to the dispute can reach a legally recognized peace

³⁵ Irfan Iryadi, 'Kedudukan Akta Otentik Dalam Hubungannya Dengan Hak Konstitusional Warga Negara', *Jurnal Konstitusi* 15, no. 4 (2019): 796, <https://doi.org/10.31078/jk1546>.

agreement without going through a lengthy court process. This provides a quick and effective solution to resolving disputes between the parties. The Van Dading Deed ensures that the agreements made can be executed directly, providing legal certainty and avoiding potential conflicts in the future. Thus, the Van Dading Deed not only speeds up the dispute resolution process but also reduces the burden on the courts and provides economic benefits for the parties involved. The equal status of court decisions with permanent legal force makes the Van Dading Deed a vital instrument in achieving fair and sustainable dispute resolution in the Indonesian legal system.

In addition, the Van Dading Deed also aims to provide legal certainty for the parties involved in the dispute. With its executory power, the Van Dading Deed guarantees that all relevant parties will comply with the agreements contained in it. This creates legal certainty and upholds justice in dispute resolution in Indonesia.³⁶

Using the Van Dading Deed also speeds up the dispute resolution process, reduces the courts' workload, and encourages more peaceful and cooperative settlements. This deed provides a sense of security for business actors because they can rely on fast and efficient dispute resolution without going through a long and expensive litigation process. Van Dading's deeds are helpful in business disputes and other aspects of life, such as land, family, and inheritance disputes. Thus, the Van Dading Deed is essential in maintaining order and legal certainty in society. This aligns with the principles of Indonesian law that prioritize justice and legal certainty for all citizens.

Another purpose of using the Van Dading Deed is to create sustainable peace. With an effective dispute resolution mechanism through the Van Dading Deed, it is hoped that the conflicts that occur can be resolved peacefully and will not cause greater friction in the future. This reflects efforts to create long-term peace among the parties to the dispute.³⁷

In addition, the Van Dading Deed also aims to facilitate the dispute resolution process more collaboratively. By involving mediation and creating the Van Dading Deed, the parties to the dispute have the opportunity to discuss and reach an agreement that benefits all parties. This reflects a more inclusive and collaborative approach to conflict resolution.³⁸ According to Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, mediation is a dispute resolution process that involves a neutral third party (mediator) to help the parties reach an agreement. If an agreement is reached, the results are outlined in the Van Dading Deed, which has binding legal force. Thus, the Van Dading Deed provides legal certainty and prevents re-disputes.

Mediation is a dispute resolution process that involves a neutral third party, called a mediator, to help the parties to the dispute reach an agreement. In Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, mediation is regulated as a way of resolving disputes through a negotiation process to reach an

³⁶ Vivy Juliany and Mohamad F M Putra, 'Kedudukan Hukum Akta Penegasan Notaris Terhadap Akta Perubahan Perseroan Terbatas Yang Tidak Didiaftarkan', *Jurnal Usm Law Review* 5, no. 1 (2022): 239, <https://doi.org/10.26623/julr.v5i1.4871>.

³⁷ Mutiara N P Hasibuan and Mujiono H Prasetyo, 'Kedudukan Advokat Dalam Sistem Peradilan Pidana Di Indonesia', *Jurnal Ius Constituendum* 7, no. 1 (2022): 159, <https://doi.org/10.26623/jic.v7i1.4629>.

³⁸ Hasibuan and Prasetyo.

agreement between the parties with the help of a mediator. The mediator acts as a facilitator who helps the parties communicate, understand each other's perspectives, and reach an acceptable agreement for all parties involved.³⁹

In the context of dispute resolution, mediation allows the parties to actively participate in finding a satisfactory solution for all parties. Mediators help identify core conflict sources, facilitate effective communication, and guide the parties toward mutually acceptable agreements. With a collaborative and neutral approach, mediation allows the parties to formulate a solution that benefits all parties without going through a lengthy and costly judicial process.⁴⁰ In addition, mediation also provides flexibility for the parties to find solutions that suit their respective needs and interests. The parties have control over the mediation process and can play an active role in finding the best solution for them. Thus, mediation allows the parties to reach an agreement that is more flexible and tailored to the specific needs of each dispute.⁴¹ The mediation process in case 901/Pdt.G/2023/PA. Tmg showed how the Van Dading Deed can serve as an effective tool for resolving joint property disputes. Mediation conducted by Muhammad Imron, S.Ag., M.H., reached a favorable agreement for both parties, which was then ratified in the form of the Van Dading Deed. This case resolves the dispute amicably and saves significant time and costs for the parties involved.

Executive Functions of the Van Dading Deed

One of the main advantages of the Van Dading Deed is its executory power. This means that the Van Dading Deed has the force of law that allows it to be executed immediately without the need to go through a lengthy court process. This executory power provides legal certainty for the parties involved in the peace agreement listed in the Van Dading Deed. Thus, the Van Dading Deed becomes an effective instrument in upholding justice and ensuring the implementation of peace agreements between the parties to the dispute.⁴² In Decision 901/Pdt.G/2023/PA. Tmg, the agreement reached through mediation and outlined in the Van Dading Deed is recognized and ordered to be obeyed by the court. This shows that the Van Dading Deed is legally binding and has a clear and firm execution mechanism.

In dispute resolution, the existence of the Van Dading Deed is essential because its executory power ensures that agreements reached through mediation can be legally enforced. With solid legal protection, the parties involved in the dispute can ensure that the deal that has been agreed upon will be carried out in earnest.⁴³ One of the main advantages

³⁹ Tiara A Rahman, 'Penyelesaian Sengketa Hak Asuh Anak Setelah Perceraian: Perbandingan Antara Indonesia Dan Inggris', *Jurnal Usm Law Review* 7, no. 1 (2024): 248, <https://doi.org/10.26623/julr.v7i1.8801>.

⁴⁰ Septi W Sari, 'Mediasi Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2016', *Ahkam Jurnal Hukum Islam* 5, no. 1 (2017), <https://doi.org/10.21274/ahkam.2017.5.1.1-16>.

⁴¹ Ramadhany, Rosdiana, and Makmur, 'Efektivitas Pelaksanaan Mediasi Dalam Penyelesaian Perkara Perdata Di Pengadilan Negeri Jakarta Selatan (Analisis Peraturan Mahkamah Agung Nomor 01 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan)'.

⁴² Fiona Theresia, Lanny Kusumawati, and Erly Aristo, 'Perlindungan Hukum Bagi Pembeli Beritikad Baik Yang Dirugikan Atas Penetapan Eksekusi Berdasarkan Akta Perdamaian', *Notaire* 5, no. 2 (2022): 235-60, <https://doi.org/10.20473/ntr.v5i2.34993>.

⁴³ Theresia, Kusumawati, and Aristo.

of the Van Dading Deed is its executive power, which provides legal certainty for the parties involved in the peace agreement. This executory power allows the Van Dading Deed to be executed immediately without going through a protracted court process. With this power, the parties can feel safe that the results of the mediation they have achieved will be recognized and can be carried out legally. The executive power provides additional assurance that the agreements contained in the Van Dading Deed will be carried out responsibly by all parties involved.

As an effective legal instrument, the Van Dading Deed is legally binding and has a clear and unambiguous execution mechanism. For example, in Decision 901/Pdt.G/2023/PA. The court acknowledged and ordered the abridgment of the agreement reached through mediation and outlined in the Van Dading Deed. This ruling shows that the Van Dading Deed has solid legal validity and can be effectively enforced by the judiciary. This not only strengthens the legal position of the mediation agreement but also affirms that the court supports using the Van Dading Deed as a legitimate and reliable dispute resolution tool.

In the context of dispute resolution, the existence of the Van Dading Deed is essential because its executory power ensures that agreements reached through mediation can be legally enforced. With this solid legal protection, the parties involved in the dispute can feel confident that the agreement that has been agreed upon will be carried out in earnest. This increases the sense of trust between the parties to the dispute and encourages the peaceful and efficient resolution of disputes. In the long run, using the Van Dading Deed can reduce the court's workload by minimizing the cases that must be resolved through litigation while providing faster and lower-cost solutions for the parties involved.

Legal Implications for the Parties

The Van Dading Deed provides several critical legal implications for the parties involved in the dispute. First, this deed provides crucial legal certainty, ensuring that mediation results are legally recognized and formalized. This certainty reduces the risk of different interpretations or uncertainties that could trigger future conflicts. Second, the mediation process that produces the Van Dading Deed is much more efficient in terms of time and cost than the litigation process in court. Litigation often takes years, and costs are very high, including attorneys and administrative fees. In contrast, mediation can be completed relatively quickly at a lower price, providing significant economic benefits for the parties.

In addition, the Van Dading Deed has executive power that ensures that the agreement reached will be implemented according to what has been agreed upon. If one party does not comply with the agreement, the other party can request an immediate execution through the court without starting a new litigation process. This assures that the parties will abide by the agreement, reducing the possibility of new disputes arising regarding the agreement's implementation. The mediation process also encourages active participation from the parties in finding a mutually beneficial solution, as opposed to litigation, where the judge decides the outcome. This participation increases the sense of justice and satisfaction with the results achieved.

The success and effectiveness of the Van Dading Act are highly dependent on the existing legal framework, including precise regulation and the support of effective judicial institutions in enforcing the executive power of this deed. Additionally, mediation tends to result in a more balanced and fair deal, considering both parties' interests through negotiation and compromise. The Van Dading Deed offers an effective, efficient, and fair solution to disputes with strong and beneficial legal implications for the parties involved.

Conclusion

The settlement of the dispute regarding joint property through the Van Dading Deed shows the effectiveness of this approach in obtaining binding and legally recognized peace agreements. This is rather important in giving quick, efficient solutions to problems, thereby avoiding more important conflicts in the future. This makes the study significant in that it reveals, from various aspects, that the Van Dading Deed is very important in the Indonesian legal system as one of the important legal tools for peaceful and effective settlement.

Findings highlight that the Van Dading Deed accelerates and reduces costs apart from reducing the court's workload. It enhances faith in the mediation process and generally in the legal framework by ensuring legal certainty and averting other related cases. This greatly contributes to the discussion on alternative dispute-resolution techniques. With respect to joint property disputes, this study reaffirms the central importance of the Van Dading Deed.

The Van Dading Deed is vital to the Indonesian legal system in resolving disputes regarding joint property. Its application will facilitate fair and sustainable settlement, hence strengthening the litigation system as a whole. It provides valuable practical information regarding the benefits of the application and legal impacts of the Van Dading Deed. Hence, it should be implemented more broadly to seek justice and legal certainty in Indonesia.

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