
The Validity of the Decision/Estimation of Pure Unstamped Duty Prodeo

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ABSTRACT: Pure prodeo is a method of litigation free of charge, or using no fees at all, meaning that the trial costs are given by justice seekers without any cost, including using stamp duty fees, so that decisions and decisions do not use stamp duty. In this case, there is the same meaning space, namely between practice in court which is generally required to use stamp duty, and pure fee which actually happens the other way around. the decision or decision of the court judge must be stamped, and the most important question is how the validity of the decision or determination of pure prodeo in relation to law number 13 of 1985 concerning stamp duty. This study uses a normative juridical research method, with a statutory research approach technique, from the results of research conducted the validity of decisions or decisions without stamp duty remains valid, and stamp duty on pure prodeo cannot be equated with civil evidence and fees free of charge by pure prodeo practice, this is because it is charged by the burden of costs from the state

KEYWORDS: Validity, Pure Prodeo, Materai, Indonesia

A. INTRODUCTION

Basically, proceedings in court must be charged in accordance with the provisions in Law Number 48 of 2009 Article 4 paragraph (2). The adage that is often heard is that there is no dispute, there is no case and there is no case without charge. So if you want to submit a case to court, there must be a fee, except if you cannot afford to pay, then proceedings in court can be carried out free of charge after obtaining prior permission from the Court which has the authority to examine the case. (Manan,2005)

This mandate is set forth in Law Number 50 Year 2009 Article 60B paragraph (1) and (2), which reads "Every person who is involved in a case has the right to obtain legal assistance and the state bears the costs of the case for justice seekers who cannot afford it".

Legal aid services carried out by the Religious Courts are in accordance with government policies regarding the direction of development which further emphasizes the importance of access to the Religious Courts for the poor. Legal aid services at the Religious Courts have provided space for justice seekers who are less well off to proceed for free at the Religious Courts. Prodeo/court fee waiver service is litigation free of charge/free of charge.(Mujahidin 2008). Prodeo is a form of providing legal services for the underprivileged in court. All costs for carrying out prodeo for the underprivileged are borne by the state through the budget/DIPA of the Supreme Court RI, here in after often referred to as DIPA prodeo. Even so, the DIPA fee has not been able to fully assist people who cannot afford it in court proceedings. This is due to the very limited free budget allocated by the Supreme Court/court. For example, the Wonosobo Religious Court in 2018 received a prodeo budget allocation of Rp. 5,000,000.- (five million rupiah) for 20 cases.(Regulation PERMA, 2018)

This is felt to be very insufficient, considering that until early December 2018 the Wonosobo PA had received more than 2,000 cases, which 110 of his cases were examined free of charge, thus 90 of his cases were examined purely free of charge

When the budget for prodeo (DIPA prodeo) is exhausted, the case is examined free of charge (pure prodeo). Pure prodeo is litigation for free, without any fees at all. That is, without registration fees, ATK fees, editorial fees, stamp duty fees, court summons fees, and so on. In the absence of stamp duty, it means that the judge's decision/determination of cases examined on a free trial basis is not stamped. On the other hand, in practice, decisions/determinations are always even deemed to be required to be stamped (Sarmin, 2017). Based on the description above, the author feels the need to write a paper on "The Legitimacy of Decisions/Determinations of Pure Prodeo that are Not Stamped".

Based on the description above, the authors formulate the problems to be discussed in this paper are: first, what is the procedure for receiving and examining cases free of charge in court? Second, does the court judge's decision/stipulation have to be stamped? And third what is the validity of the pure prodeo decision/stipulation in relation to Law number 13 of 1985 concerning Stamp Duty?

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B. RESULT AND DISCUSSION

1. Prodeo Admission and Examination Procedures in Court

In principle, a lawsuit/application will not be registered and tried before the down payment of the court fee is paid. However, to provide an opportunity for justice seekers who are economically incapable (poor), The law has allowed these incapacitated justice seekers to conduct cases free of charge (without paying court fees/trials free of charge). There are two types of free litigation services, namely pure fee and impure fee (DIPA fee).

a. Pure Prodeo

Pure prodeo is a free-of-charge litigation term, in which for all purposes related to the settlement of the case, the plaintiff/applicant is not charged any fees. Therefore, the implementation of tasks related to the settlement of cases and costs that should have been paid to the state treasury as PNB (Non-Tax State Revenue) were eliminated due to unavailability of funds or fees.

In the event that the Plaintiff or Defendant is unable to pay the court fees, then based on Article 237 HIR and Article 273 R.Bg he can ask the Chief Justice to proceed for free. This free/free application for litigation must be requested before the main case is examined by the court (Manan, 2005).

The process of accepting cases free of charge is the same as accepting cases that use a fee. It's just that the SKUM (Power of Attorney to Pay) is written nil. Likewise in the case financial journal book. In the statement column, it is stated that the case was filed on a pro-deo basis based on an interlocutory decision (write the number and date of the interlocutory decision). (Syukur, 2017)

If the plaintiff/applicant submits a lawsuit/application in writing, then the prodeo litigation application is stated in the lawsuit/application letter which is accompanied by a statement from the Village Head or Village Head. The certificate is in the form of:

- 1) Certificate of Inability (SKTM) issued by the Village Head/Lurah/Head of the local area stating that it is true that the person concerned cannot afford to pay court fees; or
- 2) Other Social Benefits Certificates, such as Poor Family Cards (KKM), Community Health Insurance Cards (Jamkesmas), Rice for the Poor Cards (Raskin), Family Hope Program Cards (PKH), Direct Cash Assistance Cards (BLT), Social Protection Cards (KPS)) or other documents related to the list of poor people in the unified government database or issued by other agencies authorized to provide information on incapacity.

If the party applying for a prodeo case does not receive a poor statement from the competent authority, then to prove his incapacity must be done by hearing witness statements or other information such as looking at work, how to dress, social status and others. If a lawsuit/application is filed orally, then the prodeo litigation application is also submitted at the time of submitting the lawsuit/application verbally (article 238 paragraph (1) HIR).

After the case is registered on a free basis, the Head of the Religious Court appoints the Panel of Judges. Then the Panel of Judges determines the day of the trial for examining the application on a prodeo basis. The results of the examination regarding whether or not the application for a prodeo case is granted or not is included in the interlocutory decision. prodeo is unreasonable, in fact the party filing for prodeo is a person who is able and able to pay the costs of the case as determined by the court. (Abdul, 2018) The provisions of the opposing party refuting the request for prodeo are referred to in Article 239 paragraph (2) HIR and article 275 R. Bg. For one of these reasons alone,

19 If during the examination it is proven that the applicant is incapacitated, the judge makes an interlocutory decision stating that he grants the applicant's request and orders the parties to attend the next hearing without summons. The Interlocutory Decision is fully contained in the Minutes of Session. 20

b. Impure Prodeo

Prodeo cases whose case fees are provided by the state through the DIPA (Budget Execution List) are called impure prodeo.²¹ Or often they are also called DIPA prodeo. This type of prodeo has been regulated in Perma Number 1 of 2014 concerning Guidelines for Providing Legal Services to Poor People in Court.

As with pure prodeo, prodeo DIPA must also submit a request to the Chief Justice for free/free cases. The procedure for granting a DIPA fee at the court of first instance is:

- 1) The Petitioner submitted a prodeo before the first trial;
- 2) If the prodeo applicant as the defendant is filed before submitting the answer;
- 3) Prodeo requests are submitted to the Chief Justice through the secretariat by attaching written evidence as described above;
- 4) The Secretary checks the feasibility of waiver of case fees and the availability of budget, then the Secretary gives consideration to the Chair;
- 5) The Chairperson has the authority to examine files based on the Secretary's considerations.
- 6) If the request is granted, the head of the court issues a waiver of case fee/prodeo services. If rejected, the litigation process is carried out as usual;
- 7) A copy of the prodeo determination is submitted to the Secretary as KPA (Budget User Authority);

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- 8) The secretary makes a decision to charge case fees to the state budget;
- 9) The Expenditure Treasurer submits the prodeo fee to the cashier, the amount of which is determined in the secretary's decree;
- 10) If the case costs run out, the Secretary can make a decision letter to add;
- 11) If there is remainder, it can be used for other prodeo fees for cases;
- 12) The Expenditure Treasurer keeps all evidence related to prodeo costs;
- 13) The Expenditure Treasurer records all prodeo costs in the books provided for it; (Syukur, 2007)

2. Documents Subject to Stamp Duty According to Legislation

The use of seals has been practiced by the community for a long time, in other words it is no stranger to everyday life. Many legal actions are carried out by the community, for example transactions that state an amount of money, agreements, power of attorney and others, always use a stamp. Some people think that without a seal on the agreement, it means that the agreement can be canceled or they don't want to keep their promises.

This opinion, according to the author, needs to be straightened out, because the absence of a stamp in a document does not mean that the legal action is invalid, but only that it does not meet the requirements as a means of proof in court. The validity of a document, for example a letter of agreement, is not determined by the existence of a stamp duty. In addition, a stamp duty is only used as proof that document tax has been paid. (Regulation, 1985)

Article 2 paragraph (1) of Law Number 13 of 1985 concerning Stamp Duty and Government Regulation of the Republic of Indonesia Number 24 of 2000 concerning Changes to Stamp Duty Tariffs and the Amount of Limits for Imposing Nominal Prices Subject to Stamp Duty have determined the types of documents and what document criteria are subject to stamp duty, including:

- a. Agreements and other letters made with the aim of being used as a means of proof regarding actions, facts or circumstances that are civil in nature;
- b. Notary deeds including copies;
- c. Deeds drawn up by the Official for Making Land Deeds including copies;
- d. Letters containing the amount of money, namely:
 - 1) which mentions receipt of money;
 - 2) stating the bookkeeping of money or depositing money in an account at a bank;
 - 3) containing notification of account balance at the bank;
 - 4) which contains an acknowledgment that the debt has been fully or partially paid or calculated.
- e. Securities such as money orders, promissory notes, acceptances; or
- f. Documents to be used as evidence before the Court, namely:
 - 1) Ordinary letters and household documents;
 - 2) Documents that were originally not subject to stamp duty based on their purpose, if they are used for other purposes or used by other people, other than their original purpose.

Does the judge's decision/stipulation have to be stamped? Referring to the documents subject to the stamp duty mentioned above (which are adjacent to this discussion), are "Agreements and other letters made with the aim of being used as a means of proof regarding acts, facts or circumstances that are civil in nature". Is the decision/decision of the judge included in the definition of a letter of agreement, or letters made with the aim of being used as a civil evidence tool? The judge's decision/determination is not a letter that has the nature of civil law, therefore the judge's decision/decision is not subject to stamp duty. Stamp duty is also not imposed on copies or excerpts of the judge's decision/determination, both concerning civil cases and those concerning criminal cases.

Based on the description above, it can be concluded that basically a judge's decision/decision does not have to be stamped. This is because the judge's decision/determination is not an agreement or letters made with the aim of being used as a civil evidence tool, and also does not include documents that must be subject to stamp duty as stated in the Stamp Duty Law.

3. The validity of the decision/determination of pure prodeo in relation to Law number 13 of 1985 concerning Stamp Duty

Settlement of cases on a prodeo DIPA basis is a settlement of cases financed by the state through the court budget. Components borne by DIPA include summons, editorial and stamp duty costs. (Pedoman, 2013) This is different from the case settlement on a pure free basis, namely free settlement of cases/free of all components of case costs.

When the application for a prodeo (pure prodeo) case is granted, the plaintiff/applicant is released from all components of the costs incurred.

required in this case, including the clerkship rights that must be deposited into the state treasury, stamp duty fees and processing costs such as summons fees, notification fees and so on. Because in pure prodeo cases there is no stamp duty, the authors are of the opinion that the judge's decision/decision in cases examined on a pure prodeo basis does not need to be stamped.

According to Drs. H. Sarmin Gratitude, MH in his book entitled Legal Procedures for Religious Courts in Indonesia, that if a case has been determined to be examined without charge (prodeo), then all costs based on statutory provisions should be incurred for his interests, must be waived, such as recording fees, stamp duty fees and others because these general provisions cannot be

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applied to this prodeo case. In this case, the principle of *lex specialist derogate legi generalis* must be applied. Therefore for prodeo cases there are no recording fees, stamp duty and others, so the decision/stipulation is not stamped because prodeo costs include a stamp duty.

However, it is still disputed by legal practitioners. Some of them said that if they had been given permission to proceed for free, then the entire court fee was free including the cost of the stamp duty, some were of the opinion that everything was free of charge except the fee for the stamp duty which had to be borne by the Plaintiff/Petitioner, because these costs could not be borne by the Court. (Manan, 2005)

Based on these opinions, in the author's opinion, the validity of decisions/determinations of pure prodeo which are not stamped is still as strong as decisions/decisions of other judges which are stamped. This is because the judge's decision/determination is not an agreement or letters made with the aim of being used as a civil evidence tool, and also does not include documents that must be subject to stamp duty as stated in the Stamp Duty Law. Besides that, the validity of a document is not determined by the existence of a seal.

C. CONCLUSION

From the description above, the writer can draw several conclusions, including:

- a. Free litigation in court can be done with DIPA free and pure free. DIPA fees, namely litigation at state expense, while pure fees are free of charge at all. The applicant for a prodeo litigation submits an application regarding his inability to pay court fees to the head of the court by attaching a statement of incapacity.
- b. Basically, the judge's decision/determination does not have to be stamped. This is because the judge's decision/decision is not an agreement or letters drawn up with the aim of being used as a civil proof tool, and also does not include documents that must be subject to stamp duty as stated in the Stamp Duty Law.
- c. The validity of decisions/determinations of pure prodeo which are not stamped is still as strong as other decisions/decisions of judges which are stamped. In addition, the validity of a document is not determined by the presence of a seal.

SUGGESTION

In order to make it clear that a judge's decision/determination must be stamped or not, the Supreme Court needs to issue a regulation that regulates this matter; The prodeo budget allocation at the Wonosobo Religious Court is still lacking, so the Supreme Court needs to increase the budget at the Wonosobo Religious Court which is earmarked for prodeo.

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