

## SUMMARY

Arum Dwi Luberty, Civil Law, Faculty of Law Brawijaya University, August 2014, ANALYSIS OF VERDICT IN CASE NUMBER : 1537/Pdt.G/2009/PA.Mlg ABOUT NUSYUZ AS A REASON OF DIVORCE, Ulfa Azizah, SH., M.Kn, Rachmi Sulistyarini, SH., MH.

In this thesis, the author takes a couple divorce case to be analyzed. Petition for the divorce filed by the husband as the applicant and his wife as the respondent. Divorce petition filed to the Court of Malang religion on the grounds that his wife has done nusyuz to her husband, which is to leave her husband for two years in a row and the wife was deemed to have neglected his duty as a wife as stipulated in Article 83 paragraph 1 of the Compilation of Islamic Law. On the other hand, his wife gave a statement in a written response that what was alleged her husband is not all true. In this case then occurs a recriminations between the husband and wife.

Based on the things above, this paper take some formulation of the problem: (1) How sense of nusyuz as the reason for divorce when viewed from the perspective of Islamic law? (2) How the suitability of the legal considerations of the judges of the court of Malang religion on the grounds nusyuz as a reason for divorce with the Islamic law on the verdict number: 1537 / Pdt.G / 2009 / PA.Mlg?

Then the writing of this paper uses the method of normative juridical approach legislation (statue approach) and the approach to the case (case approach). Primary legal materials, secondary, and tertiary which obtained by the authors were analyzed using systematic interpretation techniques related to the articles in the compilation of Islamic law and using grammatical interpretation for the meaning of nusyuz.

From the results of research using the method above, the authors find the answers for the problem that nusyuz is basically means as a defiant act followed by non-fulfillment of obligations by both husband or wife. From the point of view of Islamic law, the meaning of nusyuz contained in the Al-Qur'an, hadist of the Prophet Muhammad SAW and the results of the ijthihad from some the scholars of Islam. One of the results of ijthihad was came from Imam Shafi'i that gives the difference between nusyuz committed by a husband and nusyuz committed by wife. According to him, the wife's nusyuz were more toward disobedience, while the husband's nusyuz is more likely mere of displeasure. In terms of handling nusyuz, wives who do nusyuz can be advised only, separate beds until beaten. And for nusyuz of husband, wife just can give her rights up to her husband in order to her husband feels happy. Regarding the legal implications of nusyuz, the wife may lose their rights while the husband can not lose their rights.

While regarding with the second formulation of the problem related to the judge's decision about the suitability of the Religious Court Malang, Religious Court judges concluded that the wife as defendant did not prove to do a nusyuz like what is alleged by the husband. This is in accordance with the provisions of

Islamic law that rules the actions that are considered to be nusyuz if a wife leaves her husband for no good reason. In this case the judge considered that the departure of the wife is to save the fetus in the womb. If at that time the defendant was not going to leave her husband, this will only harm your fetus is in the womb. Therefore nusyuz wife is not proven, then the husband should still provide a living iddah obligations according to a predetermined amount of the ex-wife.

