

ABSTRACT

Beni Khaeroni. 2011. Religious Court Judge views Malang About Grants Testament (KHI Perspectives and Positive Law in Article 968 and 992 Civil Code). Programs Al-Ahwal Al Syakhshiyah Faculty of Sharia. State Islamic University (UIN) Malang Maulana Malik Ibrahim.

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Will Grant is giving one person to another when the giver is going to die. Grants will also one institution that has long been recognized before Islam, although in some periods of history will grant could be misused to do injustice.

This study aims to determine how the views of religious court judges about the grants will Malang (KHI perspective and Positive Law in articles 968 and 992 Civil Code).

This study is an empirical law, ie a process to find the rule of law, legal principles, as well as legal doctrines in order to answer the legal issues at hand. In this case the researchers understand the views of religious court judges Malang City of Grants Testament and then linking them with existing theories. As for the methods of data analysis, researchers used a normative analysis that highlight the comparative method as a key grip

Religious Court Judge views about the article Malang Civil Code Article 968 does not agree, this is as contained in Compilation of Economic Law of Sharia (KHES) of Article 713 which reads: "A treasure that must be definite and Bestowed known." And in the perspective of Islamic law also does not allow unauthorized grant or bequest to the goods has not been clear there or not there. In the article about the grant testament contained in article 992 Civil Code which reads: "A testament, in whole or in part, should not be revoked, except by a special deed, which contains a statement about the heir to the revocation in whole or in part the old testament" . So the religious court judges view Malang about this article is not valid, namely the provision of an object grant voluntarily and without compensation from someone to others who are still alive to be owned and testament of an object from the heir to another person or institution that will apply after the heir died and specifically to the withdrawal of grants contained in the Compilation of Economic Law of Sharia (KHES) of Article 717 sampa 721