

## The Legal Standing of Statement Letters in Proofing Cases of Joint Property (Civil Case Study Number: 390/Pdt.G/2021/PA.Psp)

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**Abstract.** *This research aims to describe the position of the Statement Letter in Proving Joint Assets at the Padangsidempuan Religious Court (Civil Case Study Number: 390/PDT.G/2021/PA.PSP) based on the Subekti Theory of Evidence and the Theory of Justice according to Islamic views. The type of research used is normative juridical with a qualitative approach method. Data collection techniques were carried out using observation, interviews and documentation techniques. The data analysis technique applies the theory of Miles, Huberman, & Saldana (2014). The results of this research are based on the theory of Evidence according to Subekti, that Evidence is to convince the judge about the truth of the argument or arguments put forward in a dispute. Thus, Parwit Simamora, who has submitted a statement letter, has promised the judge the truth of what he has stated in the letter through the answers ]he has submitted. So the panel of judges gave consideration and assessed that the position of the statement letter was proof of commencement which must be supported by other evidence. Meanwhile, the other witnesses who wrote the statement were not present in court to provide evidence, so they could not promise the judge what was stated in the statement because they did not fulfil the judge's invitation to appear in contradiction to stating their evidence so that the judge considered the position of the statement was not can be used as initial evidence as an initial backup or clue to the object of the case.*

**Keywords:** Court; Evidence; Joint Assets; Statement Letter.

### 1. Introduction

In Islam, marriage is a hallowed agreement. Before marriage, certain requirements should be met before one can precisely figure out the idea of marriage. As expressed in Surah An-Nur Refrain 32 as follows.

وَأَنْكَحُوا الْأَكْيَامِي مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ

An observer, Imam Al-Qurthubi deciphered the section above as a proof of marriage demand which is shown by the utilization of fundamental sentences (amr'), particularly 'ankihu; " Wed me." The book request should be passed on to the watchman or guardians, not straightforwardly to the lady and husband, to show that the marriage is legitimate with the two guardians with them.

In the interim, Mustafa Al-Maraghi remarked on the utilization of the expression "wassholihina" which is characterised as a meriting person. He underscored that "right" in this section signifies "devout". Another way is a couple's confidence is one thing that should be considered cautiously while getting hitched. Essentially, marriage is a connection between a man and not entirely set in stone to begin a family. Article 1 of Regulation Number 1 of 1974 characterises marriage as a physical and profound connection between a man and a lady as a team determined to shape a cheerful and enduring family.

In a nation in light of the main rule of Pancasila, to be specific Confidence in One All-powerful God, this article considers the way that marriage has an exceptionally cosy relationship with religion. In this manner, marriage has a physical and intuitive part that takes a significant part. Rasulullah SAW made sense of that marriage is *sunatullah* — the sunnah of the messengers. Marriage is expected to make a *sakinah*, a blissful, tranquil and agreeable family. The coherence of posterity through marriage that is perceived by regulation, substantial as per religion, and acknowledged as a component of local area culture is one of the objectives of Islamic marriage regulation.

There is a connection between spouses in marriage, particularly in riches. These resources comprise joint resources and resources gained before the marriage. Obtained assets are the assets that each accomplice brings to the marriage bond. After marriage, property possessed mutually is known as local area property. These resources can be as protections, steady items, or both. The separation choice will affect resources obtained during the marriage, which in the Marriage Regulation are alluded to as "joint resources" or "gono-gini resources" practically speaking. " Joint property in marriage in Indonesia is managed in Regulation Number 1 of 1974 concerning marriage, Part VII in Articles 35, 36 and 37. Article 35 (1) makes sense of that property obtained during marriage becomes joint property. Article 36 (1) controls joint property, a spouse or wife can act with the assent of the two players. Furthermore, Article 37 states that assuming a marriage separates because of separation, joint resources are managed by particular regulations.<sup>1</sup>

Contingent upon the date of the marriage being referred to, the division of conjugal resources in separate is directed by both the arrangements of the Common Code (KUHP) and the Marriage Regulation Number 1 of 1974. Common Code marriage

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<sup>1</sup> Mohammad Rusfi, (2016), "Filsafat Harta: Prinsip Hukum Islam Terhadap Hak Kepemilikan Harta", *Jurnal Al-Adalah*, Vol. 13, No. 2, Desember 2016 (Bandar Lampung: Fakultas Syari"ah UIN Raden Intan Lampung, 2016), p. 239.

regulation applies to relationships that happened before the approval of the Marriage Regulation. Marriage is dependent upon the arrangements of the marriage regulation, the Marriage Regulation, assuming it happens after the proclamation of the Marriage Regulation.

On a basic level, there are no standards for joint property in the Al-Qur'an or Hadith. This book doesn't contain laws on joint property. In this situation, researchers have various perspectives with respect to joint resources. These Indonesian legitimate specialists have overseen joint resources by alluding to the Al-Qur'an and hadith in the Islamic Regulation Design (KHI) which are kept in KHI articles 85-97. " Article 97, which expresses that a separated widow or single man is each qualified for half of the joint property for however long it isn't generally determined in the marriage understanding, doesn't preclude the chance of common proprietorship in marriage, the obligation of a couple in safeguarding property, and the place of joint property in case of separation because of death.

In case of partition or demise of one of the accomplices, the marriage is considered to have finished. The purposes for the distinctions are unique, including the shortfall of youngsters, ineptitude, betrayal, misuse, struggle between companions or relatives, and failure to bring in cash.

In light of the items in the Law on Marriage above, it is made sense of that the Marriage Regulation complies with rules that make separate troublesome. Under the watchful eye of the trial, permitting a separation for specific reasons should be finished. " This thought is in accordance with the possibility of marriage pointed toward making a *sakinah, mawaddah, warahmah* family in view of confidence and dutifulness to Allah.<sup>2</sup>

The finish of the marriage between the enduring companions is something that should be settled, specifically the issue of joint property. In partitioning joint resources, different legitimate deviations can happen in the relevant regulation.<sup>3</sup>

Applications for settlement of joint resources for the Strict Court are submitted and determined to get a division of conjugal resources that has a component of equity for the gatherings. The case will be concluded by an appointed authority with proof in regards to the conjugal or joint resources which have been stirred up during the marriage between the gatherings.

To conclude a case, the main thing is verification in light of the fact that:

- a) believed false everything can't be confirmed by regulation."
- b) Any individual who has an assessment is obliged to show the reality of his perspective (which is invalidated).

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<sup>2</sup> Usman, R. (2006). *Aspek-Aspek Hukum Perorangan dan Kekeluargaan di Indonesia*. Yogyakarta: Sinar Grafika Offset.

<sup>3</sup> Manan, A. (2006). *Aneka Masalah Hukum Perdata Islam di Indonesia*. Jakarta: Kencana

- c) There are gambles related to the obligation to prove any claims, implying that regardless of whether you can demonstrate your case, you won't be guaranteed to win".<sup>4</sup>

"Article 1868 BW decides: "A genuine deed is a deed made by regulation by or within the sight of a public authority who is approved to do as such where it is made." Public bodies approved by guidelines make substantial deeds, joining public bookkeepers, public library authorities, court delegates, and bailiffs. In completing their work, the public authorities concerned are restricted by legal concurrences fully intent on being guaranteed setting partake in the realness of his work (Muhammad, 2008).

In dealing with Common Case No. 390/PDT.G/2021/PA.PSP, the proof involved by the Offended party in demonstrating his joint property body of evidence against the Litigant is an assertion as d. An assertion letter is one of the devices that can be utilized as composed proof in legal procedures (High Court Statute No. 3901 K/Pdt/1985 dated 29 November 1988).<sup>5</sup> An assertion letter can be utilized as proof if an assertion is expected to demonstrate something in a joint property case. In this situation, the assertion letter is a deed or composing marked secretly and the composing isn't endorsed by an authority. So this assertion letter is classified as a confidential deed.

## 2. Research Methods

The type of research is Normative Juridical legal research through document study by analyzing Civil Case No. 390/PDT.G/2021/PA.PSP. In this research, the research subject is the judge's decision document regarding the statement letter in evidence in Civil Case No. 390/PDT.G/2021/PA.PSP, documents and those who make decisions, in this case, those who make decisions are judges, as well as respondents who make statements regarding proof of joint assets, will be the subject of research. legal statement letter in proving joint property cases. Qualitative data collection techniques in this review use observation, interviews and documentation methods. The data analysis technique applies the theory of Miles, Huberman, & Saldana (2014).<sup>6</sup>

## 3. Results and Discussion

In a marriage bond, what can drive a wedded life is riches. This intends to address the issues of day-to-day existence.<sup>7</sup> The resources acquired can't be isolated from the consequences crafted by the couple, which are frequently alluded to as joint resources in marriage. Deciding on joint property is vital in marriage as its control and appropriation, in particular, "command over joint property on the off chance that the

<sup>4</sup> Rasyid, R. A. (2006). *Hukum Acara Peradilan Agama*. Jakarta: Raja Grafindo Persada.

<sup>5</sup> Supreme Court Jurisprudence No. 3901 K/Pdt/1985 dated November 29, 1988.

<sup>6</sup> Miles, M. B., A. Michel, p., & Johnny, S. (2014). *Qualitative Data Analysis*. <https://www.ptonline.com/articles/how-to-get-better-mfi-results>

<sup>7</sup> Pratama, A. (2018). "Implementasi Percampuran Harta Bersama Dan Harta Bawaan Dalam Perkawinan(Studi Kasus Putusan Pengadilan Agama Nomor:0189/Pdt.g/2017/Pa. Smg), *Jurnal Ius Constituendum*, 3(1), 15-26". p. 16. Doi : <http://dx.doi.org/10.26623/jic.v3i1.861>

marriage is as yet continuous and division of joint property is done when the marriage separates".<sup>8</sup> In the feeling of the word joint property, truly intends that there is property that is claimed by more than one individual, in particular the couple.

Article 35 passage (1) of the Marriage Regulation specifies that "property gained during marriage is joint property". In light of this article, it tends to be figured out that "all property obtained during the marriage becomes joint property, whether mobile or steadfast, unmistakable or elusive, from crafted by the spouse or husband until the marriage is disintegrated, either because of death or separation."

This is likewise directed in the Common Code in regard to joint property in Article 119 which states "From the time the marriage happens, as per the law there is finished joint property between the couple to the extent that there are no arrangements in the marriage understanding, joint property "As long as the marriage is running, it can't be broken down or changed by understanding between the husband and spouse."

Article 163 HIR/283 RBG states "whoever professes to have a right or an occasion, he should demonstrate the presence of that right or occasion". Confirmation is "a task of showing something by proposing everything connected with what you need to exhibit so it can persuade others of something explicit." Proof is likewise portrayed as a cycle, procedure, exhibit, and work to show whether a disputant is correct or wrong in the court.<sup>9</sup>

Material legitimate proof contains "concerning the reasonableness or restriction of specific proof at the start and coordinating the evidentiary strength of a piece of proof." Aside from that, for legitimate verification, it officially controls "techniques for evidence. " The things that ought to be guided out by the gatherings toward the question are the occasions or events that are the subject of discussion, not the law, taking into account that the delegated authority decides the law." The truth looked for in the overall procedural guidelines is formal truth, while in the criminal procedural guidelines, it is material truth." In Article 178 HIR/189 section (3) that's what RBG states "Endeavors to look for formal truth imply that the appointed authority just awards what is being sued for and is disallowed from conceding more than whatever is mentioned in the petitem. The appointed authority just has to demonstrate it by choosing in view of adequate proof."

Article 164 HIR/284 RBg which coordinates proof in everyday cases, particularly "composed proof, proof with witnesses, prosecutions, admissions and commitments". Aside from that, in light of Article 153 HIR/180 RBg. Article 154 HIR/181 RBg establishes that "there are methods for proof that can be utilized to get assurance in

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<sup>8</sup> Sugiswati, B. (2014). *Konsepsi Harta Bersama Dari Perspektif Hukum Islam*, Kitab UndangUndang. *Hukum Perdata Dan Hukum Adat, Perspektif*, 19(3), 201-211. p.203. Doi : <http://dx.doi.org/10.30742/perspektif.v19i3.22>

<sup>9</sup> Amin, R, (2020), *Hukum Pembuktian dalam Perkara Pidana dan Perdata*, Yogyakarta. Deepulish. p.13

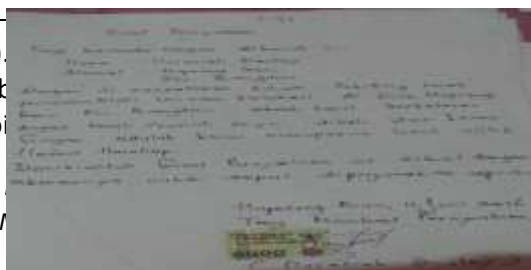
regards to the reality of the occasion that is in debate, specifically neighbourhood assessment (descente) and master/master observer declaration (skill)".<sup>10</sup>

Article 163HIR/283 RBG specifies that "The commitment to demonstrate a case is forced on individuals very familiar, on the harmed party or on the prosecutor, particularly when the litigant keeps down the debate to get the case." One more thought about the adjudicator in regard to affirmation is that "the commitment to demonstrate a case is connected with who first shows and when the commitment to demonstrate something is given to the harmed party and the respondent, what proof is still up in the air by the guidelines, whether the proof has reached similarly as up to this point that it has the force of verification."

The property ought to be joint property and can be separated in the event that one party can demonstrate that the property is joint property. Expecting that one of the affiliations can't demonstrate that the resources are joint resources, the resources can't be apportioned and just resources that can be demonstrated can be isolated. " The commitment to demonstrate a case is forced on the gatherings worried, on the oppressed party or on the prosecutor, particularly on the off chance that the respondent keeps the gatherings in debate from getting the case." One more thought about the adjudicator in regards to affirmation is that "the commitment to demonstrate a case is connected with who first shows and when the commitment to demonstrate something is given to the harmed party and the respondent, what proof is still up in the air by the guidelines, whether the proof has reached similarly as up to this point that it has the force of verification."

The property ought to be joint property and can be separated in the event that one party can demonstrate that the property is joint property. Expecting that one of the gatherings can't demonstrate that the resources are joint resources, then, at that point, the resources can't be isolated and just resources that can be demonstrated can be divided. In Common Case No. 390/Pdt. G/2021/PA.PSP, the Offended party should demonstrate joint resources in her union with the Respondent through proof that can be lawfully represented, on the grounds that there are resources that the Litigant doesn't perceive as joint property. The adjudicator's justification for requiring the offended party to demonstrate joint resources was on the grounds that the respondent contended that the presence of the resources being referred to was not perceived so the resources guaranteed as joint resources by the offended party couldn't be separated. For this situation, there is joint property yet proof as proprietorship records have been controlled and secret by the Respondent. So for this situation, the Offended party utilized an explanation letter as proof to demonstrate the presence of the joint resources. The portrayal of the assertion letter involved by

<sup>10</sup> Fakhriah, E. L. (2015). Pengadilan menuju pemb...



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al Hukum Acara Perdata,

the Offended party as proof which is examined involving evidentiary hypothesis exhaustively is as per the following.

**Fig. 1. Statement Letter in the name of Nuraisyah Daulay (P. 4.1)**

FIG. 1 above is a statement letter stated in writing by Nuraisyah Daulay which is evidence and is symbolized by P. 4.1. In this letter, Nuraisyah Daulay stated that a plot of land is located in Hapesong Village, Kec. Batang Toru truly belongs to Mr. Hairum Harahap as the Plaintiff. This land is to the west of his house. This land is a residential area measuring 10 m x 20 m. He also admitted that this land was purchased by the Plaintiff from Mr Imran Siregar.

Sir Roland in his book "Phipson on the Law of Evidence" classifies evidence, including:<sup>11</sup>

a) Division of original evidence and unoriginal evidence

Original evidence is testimonial evidence, namely witnesses who directly give their testimony orally before a court hearing. Meanwhile, unoriginal evidence (evidence that is not original) is a witness statement made in writing.<sup>12</sup> In Indonesia, witness statements made in writing are not included as "testimony" evidence but are included as written evidence (other terms: writing or evidence in writing). Based on this classification, the statement letter stated by Mrs. Nuraisyah Daulay is categorized as unoriginal evidence because the statement letter is a written statement from a witness.

b) Division of primary evidence and secondary evidence

Primary evidence is evidence that takes precedence, while secondary evidence is evidence that is only needed if primary evidence does not exist. In Indonesian civil procedural law, the primary evidence is written evidence. Especially authentic deed evidence.<sup>13</sup> Based on this classification, the statement letter written by Nuraisyah Daulay can be classified as secondary evidence because the primary evidence in the form of an authentic deed is not owned by the Plaintiff, so replacement evidence is needed to strengthen the Plaintiff's ownership of the property claimed in this case.

c) Division into "direct evidence" and "indirect evidence"

In Indonesia, what constitutes "direct" evidence is all evidence that can directly prove the existence of a legal relationship or event that you want to prove, so it is not based

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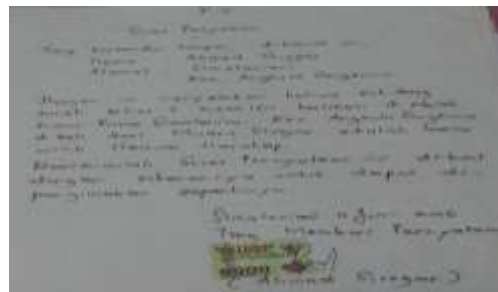
<sup>11</sup> Burrows, Sir Roland. (1952). *Phipson on the Law of Evidence*. Ninth Edition, London, Sweet & Maxwell Limited.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

on mere conclusions. Therefore, "direct evidence" includes written evidence, testimony, oaths and confessions. "Indirect evidence" is assumptions (presumptions). This indirect evidence is often called "Circumstantial Evidence" or also "Presumptive Evidence". In this case, this statement letter in the name of Nuraisyah Daulay can be classified as direct evidence.

Based on the analysis above, the statement letter stated by Mrs Nuraisyah Daulay has the function and position of unoriginal written evidence because the statement letter was only written directly by her but was not disclosed directly at the trial because the person concerned could not attend court. The statement letter is also classified as secondary evidence because Plaintiff does not hold an authentic deed in the form of a land certificate for the property, so Plaintiff asked Mrs Nuraisyah Daulay to declare ownership because she knows and admits ownership of the property in question.



**FIG. 2. Statement  
Ahmad Siregar**

**Letter in the Name of**

FIG. 2 above is a statement letter stated in writing by Ahmad Siregar which is evidence from the Plaintiff and is symbolized by P5. In this letter, Ahmad Siregar acknowledged that a plot of land is located to the east of Simataniari Market, District. Angkola Sangkunur really belongs to Mr. Hairum Harahap as the Plaintiff. This land measures 3.5 m x 16m. He also admitted that this land was purchased by the Plaintiff from Mr. Muara Siregar.

From the data above, the researcher then classified the evidence applying Burrows' theory, namely as follows:<sup>14</sup>

a) Division of original evidence and unoriginal evidence

Original evidence is testimonial evidence, namely witnesses who directly give their testimony orally before a court hearing. Meanwhile, unoriginal evidence (evidence that is not original) is a witness statement made in writing. In Indonesia, witness statements made in writing are not included as "testimony" evidence but are included as written evidence (other terms: writing or evidence in writing). Based on this classification, the statement letter stated by Mr. Ahmad Siregar is categorized as unoriginal evidence because the statement letter is a witness statement made in writing without giving his testimony orally before the Panel of Judges. He did not attend the trial because he did not dare to testify directly.

b) Division of primary evidence and secondary evidence

<sup>14</sup> Ibid.

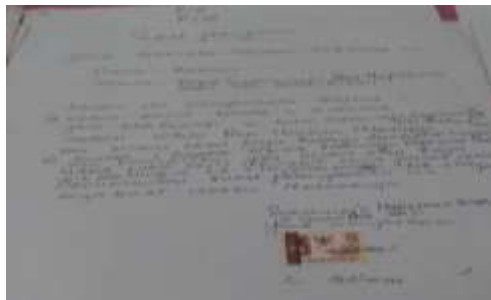


Essential evidence is evidence that takes precedence, while optional evidence is evidence that may be needed if essential evidence is absent. In general procedural regulations in Indonesia, essential evidence is written evidence. Very credible deed evidence. Based on this classification, the statement letter written by Mr. Ahmad Siregar can be classified as secondary evidence because primary evidence in the form of an authentic deed is not owned by Plaintiff, so replacement evidence is needed to strengthen Plaintiff's ownership of the property claimed in this case.

c) Division into "direct evidence" and "indirect evidence"

In Indonesia, what is meant by "direct" evidence is any evidence that can directly show the existence of a legitimate relationship or event that needs to be proven, so that it does not depend on simple objectives. Therefore, "direct evidence" includes written evidence, testimony, oaths and confessions. "Indirect evidence" is assumptions (presumptions). This indirect evidence is often called "Circumstantial Evidence" or also "Presumptive Evidence". In this case, the statement letter in the name of Ahmad Siregar can be classified as direct evidence.

Based on the analysis above, the statement letter stated by Mrs Nuraisyah Daulay has the function and position of unoriginal written evidence because the statement letter was only written directly by her but was not disclosed directly at the trial because the person concerned could not attend in court. The statement letter is also classified as secondary evidence because Plaintiff does not hold an authentic deed in the form of a land certificate for the property, so Plaintiff asked Mr Ahmad Siregar to declare ownership because he knows and admits ownership of the property in question.

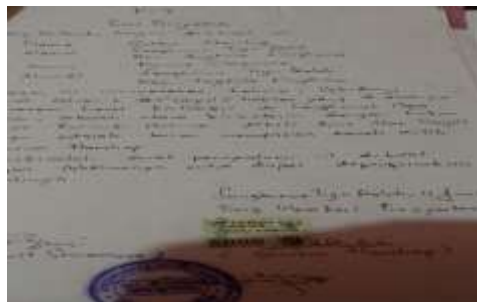


**FIG. 3. Statement Letter in the Name of Boiman**

In the picture above, there is a statement letter stated by Boiman on November 15<sup>th</sup>, 2021. In the letter, he revealed that the 2-hectare oil palm plantation located in Sukamaju Hapesong Baru Hamlet, Batang Toru District, belonged to Mr. Hairum Siregar as the Plaintiff. He also admitted that the oil palm plantation was managed by him, and then the palm oil products were taken by Siti Khadijah as the Defendant. The yield of palm oil reaches 2.8 – 3 tons per harvest within 1 x 2 weeks. This harvest has also included palm oil crops from the estate of Mr Hairum Harahap's parents (Plaintiff). In addition, he also stated that a rice field covering an area of 1 lungguk is located in Suka Maju Hapesong Baru Hamlet, Batang Toru District. managed by him. From the

description of the affidavit above, the classification of evidence through the theory of Burrows is as follows:

The affidavit written by Mr. Boiman has a function and position as unoriginal evidence because the affidavit is a witness statement made in writing without giving his testimony orally before the Panel of Judges. He did not attend the trial on the grounds that he did not dare to testify in person. This affidavit is also categorized as secondary evidence because the primary evidence in the form of an authentic deed is not owned by Plaintiff, so substitute evidence is needed to corroborate the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence stating the ownership of rice fields against the Plaintiff.



**FIG. 4. Statement Letter in the Name of Parwit Simamora and Guntur Harahap**

Picture 4 above is a statement letter written by Guntur Harahap and Parwit Simamora. In the letter, it is stated that a piece of land located in Sangkunur Tiga belongs to Mr. Hairum Harahap (Plaintiff). The land has an area of  $\pm$  four hectares on which rubber trees are planted. In the north, this land is bordered by rubber trees owned by Mr. Patinudi Halawa. They also admitted that this land was purchased by the Plaintiff from the late Songit Based on the foregoing, the affidavit can be classified as evidence through the theory of Burrows. In the statement letter, there are 2 names that state the same thing, namely in the names of Mr. Guntur Harahap and Mr. Parwit. The trial, between the two, only Mr Parwit could attend the trial because Mr. Guntur Harahap had passed away. Thus, the affidavit has a function and position as original evidence because the affidavit is a witness statement made in writing and giving oral testimony before the Panel of Judges. This statement letter is also categorized as secondary evidence because the primary evidence in the form of an authentic deed is not owned by Plaintiff, so substitute evidence is needed to corroborate the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence stating the ownership of the Plaintiff.



**Fig. 5. Statement Letter on behalf of Guntur Harahap and Parwit Simamora**

In Fig. 5 above, a statement letter was written on behalf of Guntur Harahap and Parwit Simamora. In the letter, it is stated that a piece of land located in Simataniari, Angkola Sangkunur District belongs to Mr. Hairum Harahap (Plaintiff). The land has an area of  $\pm$  one hectare on which rubber trees are planted. To the north, the land is bordered by waqf land. In the letter, it is also stated that the land was purchased by the Plaintiff from the late Mara Harahap or Hoirul Harahap.

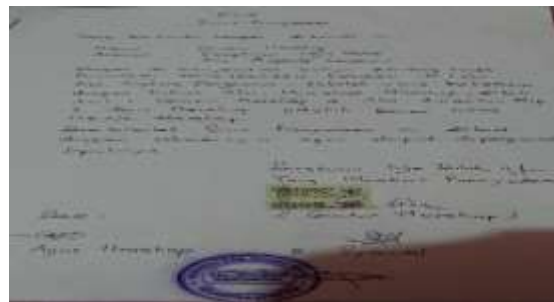
Based on the description above, the affidavit can be classified as evidence through Burrows' theory. In the statement letter, there are 2 names that state the same thing, namely in the names of Mr. Guntur Harahap and Mr. Parwit. The trial, between the two, only Mr. Parwit could attend the trial because Mr Guntur Harahap had passed away. Thus, the statement letter has a function and position as original evidence because the affidavit is a witness statement made in writing and giving his testimony orally before the Panel of Judges. This statement letter is also categorized as secondary evidence because the primary evidence in the form of an authentic deed is not owned by the Plaintiff, so substitute evidence is needed to corroborate the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence that states the ownership of the Plaintiff.



**Fig. 6. Statement Letter on behalf of Guntur Harahap and Parwit Simamora.**

In Fig. 6 above, a statement letter is written on behalf of Guntur Harahap and Parwit Simamora. In the letter, it is stated that a piece of land located in Sangkunur Tiga Dolok belongs to Mr. Hairum Harahap (Plaintiff). The land has an area of  $\pm$  1.5 hectares on which rubber trees are planted. To the south, the land is bordered by a rubber plantation owned by Mr. Aman Dalimunthe. The land was purchased by the Plaintiff from Mr. Mantari Gulo.

Based on the description above, the affidavit can be classified as evidence through Burrows' theory. In the statement letter, there are 2 names that state the same thing, namely in the names of Mr. Guntur Harahap and Mr. Parwit. The trial, between two, only Mr. Parwit could attend the trial because Mr. Guntur Harahap had passed away. Thus, the affidavit has a function and position as original evidence because the affidavit is a witness statement made in writing and giving oral testimony before the Panel of Judges. This affidavit is also categorized as secondary evidence because primary evidence in the form of an authentic deed is not owned by Plaintiff, so substitute evidence is needed to strengthen the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence that states the ownership of the Plaintiff.



**Fig. 7. Statement Letter on behalf of Guntur Harahap and Parwit Simamora.**

In Fig. 7 above is written a statement letter on behalf of Guntur Harahap. In the letter, he stated that a piece of residential land located in Lobu, Angkola Sangkunur District belonged to Mr. Hairum Harahap (Plaintiff). The land has a size of 13 m x 83 m. The land was purchased from Mr. Samsir Harahap, Mr. Alm. Amantua Hrp, and Mr. Agus Harahap. In the north, this land borders the land of Alm. Maraluat.

Based on the description above, the affidavit can be classified as evidence through Burrows' theory. The statement letter was written by Mr. Guntur Harahap. During the trial, Mr. Guntur Harahap was unable to attend the trial because he had passed away. Thus, the affidavit has a function and position as unoriginal evidence because the affidavit is a witness statement made in writing without giving his testimony orally before the Panel of Judges. This statement letter is also categorized as secondary evidence, because the affidavit is a witness statement made in writing without giving his testimony orally before the Panel of Judges. This affidavit is also categorized as secondary evidence, because primary evidence in the form of an authentic deed is not owned by the Plaintiff, so substitute evidence is needed to strengthen the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence stating the ownership of rice fields against the Plaintiff.



**Fig. 8. Affidavit on behalf of Tetti Harahap**

In the picture above, there is a statement letter stated by Mrs. Tetti Harahap on January 30, 2022. In the letter, he confirmed that they kept a cow belonging to Mr. Hairum Harahap (Plaintiff) in 2006 located in Hambeng Stairs, Paluta. The cow left 8 more cows in October 2012 which was then sold by Mrs. Siti Khadijah (Defendant) without the knowledge of Mr. Hairum Harahap (Plaintiff).

From the description of the affidavit above, the classification of evidence through the theory of Burrows, is as follows:

The affidavit written by Mrs. Tetti Harahap has a function and position as unoriginal evidence because the affidavit is a witness statement made in writing without giving her testimony orally before the Panel of Judges. He did not attend the trial on the grounds that he did not dare to testify in person. This affidavit is also categorized as secondary evidence, because primary evidence in the form of an authentic deed is not owned by the Plaintiff, so substitute evidence is needed to strengthen the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence that states the ownership of the Plaintiff.

Based on the analysis of the affidavit above, the type of evidence written by the authors of the affidavit is more dominant in unoriginal evidence because the affidavit is a witness statement made in writing without giving their testimony orally before the Panel of Judges because they were not present at the trial. The panel of judges because they were not present at the trial. Only the affidavit written by Parwit Simamora is included as original evidence because he was present and stated his testimony directly before the Panel of Judges. These affidavits can also be categorized as secondary evidence because the Plaintiff does not own the primary evidence in the form of an authentic deed, so substitute evidence is needed to corroborate the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence that states the ownership of the Plaintiff.

#### **4. Conclusion**

Based on data and data analysis that has been carried out regarding the analysis of the Position of the Statement Letter in Proving Joint Property Civil Case No. 390/Pdt.G/2021/PA. Psp can be concluded that: The type of evidence written by the

authors of the affidavit is more dominant in unoriginal evidence because the affidavit is a witness statement made in writing without giving oral testimony before the Panel of Judges because they were not present at the trial. Only the affidavit written by Parwit Simamora is included as original evidence because he was present and stated his testimony directly before the Panel of Judges. These affidavits can also be categorized as secondary evidence because the Plaintiff does not own primary evidence in the form of authentic deeds, so substitute evidence is needed to corroborate the Plaintiff's ownership of the property claimed in this case. In this case, this affidavit can also be classified as direct evidence because this affidavit is written evidence that states the ownership of the Plaintiff.

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