

## **Fraud and Abuse of Circumstances as Grounds for the Annulment of Prenuptial Agreements: A Normative Analysis of Defects of Will in Indonesian Civil Law**

**Cinta Aisyah Putri<sup>1</sup>, Dwi Aryanti Ramadhani<sup>2</sup>**

<sup>1</sup>*Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta  
Jl. Pd. Labu Raya, Pd. Labu, Kec. Cilandak, Kota Jakarta Selatan, Daerah Khusus  
Ibukota Jakarta 12450 Email: 2210611114@mahasiswa.upnvj.ac.id*

<sup>2</sup>*Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta  
Jl. Pd. Labu Raya, Pd. Labu, Kec. Cilandak, Kota Jakarta Selatan, Daerah Khusus  
Ibukota Jakarta 12450 Email : dwiaryanti@upnvj.ac.id*

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**Abstract:** *The natural human capacity for coexistence and procreation is realized through marriage, a legal bond between a man and a woman. Prenuptial agreements, which should serve as legal instruments for justly defining rights and obligations, are often misused for unilateral gain, especially when there are signs of deception or abuse of circumstances that harm one spouse. This normative juridical study aims to examine the legal standing and consequences of prenuptial agreements that mislead one of the partners, utilizing statutory and case approaches. The findings indicate that agreements containing elements of deception, either through fraud (violating subjective requirements), or those contradicting statutory law (violating objective requirements), may be annulled or declared void by law. The legal consequences include the annulment of the agreement, which reverts the asset status back to marital community property, and the potential for civil claims for compensation based on Tort (Article 1365 Civil Code) to recover losses and ensure the principle of good faith.*

**Keywords:** *Prenuptial Agreement; Deception; Void by Law*

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### **INTRODUCTION**

The human capacity to live together and to continue the lineage is a natural disposition that can only be realised through marriage between a man and a woman<sup>1</sup>. Marriage is not merely regarded as a biological necessity, but also as an order of communal life governed by law and social values, and has become a fundamental human need from ancient civilisations to the modern era. Through marriage, a binding legal relationship is

established between husband and wife, and through the birth of children, a civil relationship is also formed between parents and their offspring<sup>2</sup>. Therefore, marriage holds a highly significant position within the structure of social life, as it contains moral, social, and juridical values that regulate patterns of relationships between individuals and society at large. Accordingly, the essence of human beings as social creatures is reflected in their need to interact and to live

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<sup>1</sup> I. W. N. P Dewi, N. P., & Syafitri, "Perjanjian Pranikah Dalam Memberikan Kepastian Hukum Terkait Pembagian Harta Pada Perkawinan," *Jurnal Hukum Fakultas Hukum Universitas Udayana*, 2025.

<sup>2</sup> M Prodjohamidjojo, *Hukum Perkawinan Indonesia* (Jakarta: Indonesia Legal Center Publishing, 2002).

together within a harmonious order, as it is impossible for humans to live individually without social bonds with others.

Based on Article 1 of Law Number 1 of 1974, marriage is defined as a legal bond between a man and a woman aimed at forming a happy and everlasting family founded upon the belief in the Almighty God. The purpose of marriage, as formulated in this law, is expressed in an ideal manner, as it considers not only physical aspects but also the emotional bond between husband and wife in forming a permanent and harmonious family or household for both parties and for their future offspring<sup>3</sup>. Therefore, marriage is not merely an emotional bond, but also a legal and social responsibility that requires awareness and readiness from both parties. A prenuptial agreement may be utilised by prospective spouses as a legal instrument to formulate the rights and obligations of each party.

Article 29 paragraph (1) of Law Number 1 of 1974 on Marriage, in conjunction with the Constitutional Court Decision Number 69/PUU-XIII/2015, provides a legal basis that a marriage agreement may be drawn up either before or after the marriage is conducted. However, amendments to the contents of an agreement made before the marriage may only be carried out if there is mutual consent from both parties. To ensure transparency and legal certainty, a marriage agreement must be registered as a form of fulfilling the principle of publicity<sup>4</sup>. Furthermore, in order for a marriage agreement to obtain lawful and binding legal force, it must be validated by an authorised official, namely a marriage registrar or a notary<sup>5</sup>. The substance of the agreement may also give rise to legal consequences for third parties insofar as their interests intersect with the contents of the agreement. Thus, a marriage agreement functions as both a preventive and repressive juridical instrument, which not only regulates the rights and

obligations of the parties, but may also serve as the basis for legal resolution in the event of default or dispute in the future<sup>6</sup>.

Based on the provisions of Article 1320 of the Civil Code (KUHPerdata), contract law requires the fulfilment of certain elements as prerequisites for the validity of an agreement so that it possesses binding legal force and is recognised juridically. First, there must be an agreement between the parties, namely the conformity of intent between the declaration of one party and that of the other. Second, the parties must have the legal capacity to enter into an agreement, which means that a person has the ability to bind themselves and to bear the legal consequences arising from such agreement. For instance, a person is considered legally capable if they have reached the age of 18 or have entered into a lawful marriage. Third, the agreement must have a specific object, namely a clear performance or obligation that must be fulfilled by the parties in accordance with the contents of the agreement. Fourth, there must be a lawful cause, meaning that the contents of the agreement may not conflict with statutory regulations, moral norms, or public order.

An agreement may be deemed null and void by operation of law or annulled by law if any of its validity requirements are not fulfilled. The first two requirements, namely the presence of consent and the legal capacity of the parties, constitute subjective elements because they relate to the capacity and intent of the legal subjects. Meanwhile, the following two requirements, namely certainty regarding the object of the agreement and the presence of a lawful cause or the absence of conflict with legal provisions, are classified as objective elements because they concern the substantive material of the agreement itself. If the subjective requirements are not met, the agreement may be petitioned for annulment

<sup>3</sup> I. K. Djoko, P., & Murtika, *Azas-Azas Hukum Perkawinan Di Indonesia* (Jakarta: Bina Aksara, 1987).

<sup>4</sup> D. A. Sulastri Ramadhani, *Hukum Orang Dan Keluarga Perdata* (Jakarta selatan: Damera Press, 2025).

<sup>5</sup> H Widanarti, "Akibat Hukum Perkawinan Campuran Terhadap Harta Perkawinan (Penetapan Pengadilan

Negeri Denpasar No. 536/Pdt. P/2015/PN. Dps)," *Diponegoro Private Law Review* 2, no. 1 (2018).

<sup>6</sup> N Hidayah, N., & Muhiddin, "Analisis Yuridis Perjanjian Pra Nikah Dan Akibat Hukumnya," *Jurnal Pustaka Cendekia Hukum Dan Ilmu Sosial* 1, no. 1 (2023): 95–102.

through legal proceedings. However, if the objective requirements are not fulfilled, the agreement becomes null and void by operation of law<sup>7</sup>.

A marriage agreement provides benefits and convenience for both parties in regulating rights and obligations throughout the course of the marriage. In the practical implementation of agreements, it is not uncommon for various disputes to arise between the parties. These issues may involve the absence of good faith during the formation of the agreement or the designation of an object that contravenes applicable legal provisions.<sup>8</sup> Reality shows that there are parties who violate such agreement by abusing their authority without considering the principle of fairness. Such actions contradict the essence of the marriage agreement itself, which should uphold the principles of justice and equality within the marital bond. An agreement may be deemed legally defective if it is proven that there was coercion, fraud, or an element of duress influencing the will of the parties, which is then declared as an abuse of circumstances.

The abuse of authority in a marriage agreement is evident from the marriage case between Dennis (the Plaintiff), an Australian citizen, and Yeane (the Defendant), an Indonesian citizen. The two married in Melbourne on 18 May 2002, but only executed a marriage agreement on 29 April 2003, nearly a year after the marriage had taken place, which essentially stated that no community of property existed between the parties. All assets acquired during the marriage, even when financed by Dennis, were recorded in Yeane's name and considered her personal property. The main issue is that the agreement was prepared and signed by Dennis, who did not understand the Indonesian language and only received a one-sided explanation from Yeane, who stated that the agreement was necessary for her to obtain her family's shares. In fact, the contents of the agreement were highly detrimental to Dennis because they not only eliminated his rights over the joint assets but also imposed upon

him all household expenses and the costs of the children's education.

A subsequent case occurred in Batam between a wife and a husband, reflecting the practice of abuse of circumstances in the drafting of a marriage agreement. The parties solemnised their marriage both religiously and legally and prepared a deed of marriage agreement before a notary prior to the marriage ceremony. The agreement, titled "Deed of Separation of Assets", affirmed the absence of any commingling of assets, whether premarital assets or assets acquired during the marriage. All assets acquired during the marriage, even when derived from joint funds or from the wife's contributions in managing the household, were administratively recorded in the husband's name and considered his personal property. The issue arose because the wife signed the agreement in a pre-marital situation without adequate understanding of its consequences. She only received a unilateral explanation from the prospective husband, who stated that the agreement was made to protect the family assets from potential business risks. In reality, the contents of the agreement were highly detrimental to the wife because they eliminated her rights over the joint assets and even required her to bear all household needs, the children's education, and maintenance in the event of divorce.

Thus, it is illustrated that the dominance of one party in the process of drafting an agreement often becomes a loophole for indications of abuse of circumstances that mislead one of the parties. In both cases above, the application of Articles 1320 and 1321 of the Civil Code (KUHPerdata) explains why the marriage agreements made may be deemed defective and misleading. Such violations also contradict the principles of contract law, such as freedom of contract, good faith, fairness, and equality of position, which emphasise the necessity of fair agreement without domination. Accordingly, these two cases demonstrate the importance of applying legal norms to prevent the abuse of authority in

<sup>7</sup> Y Harahap, *Segi-Segi Hukum Perjanjian*, 2nd ed. (Bandung: Alumni, 1986).

<sup>8</sup> Ramadhani, D. A. (2012). Wanprestasi dan akibat hukumnya. *Jurnal Yuridis*, 15(17), 135-40.

marriage agreements. Therefore, it is important to further examine the legal standing of misleading marriage agreements with the formulation of the issues: “what is the legal standing of a marriage agreement that is indicated to mislead one spouse” and “What is the legal impact of a prenuptial agreement that is alleged to mislead one of the spouses”. In light of the existing problems, the researcher will conduct a study entitled “Fraud and Abuse of Circumstances as Grounds for the Annulment of Prenuptial Agreements: A Normative Analysis of Defects of Will in Indonesian Civil Law”

## METHOD

This study employs a normative juridical research method, which involves the examination of theories, concepts, and the review of relevant legislation or through a legislative approach<sup>9</sup>. Normative juridical research is a branch of legal science that analyses legal rules from a normative perspective. This branch of legal science examines principles, norms, regulations, agreements, and doctrines. The research approach includes a statutory approach and a case approach as the methodological framework for examining the legal issues that constitute the focus of the study. The statutory approach is conducted by comprehensively reviewing various regulations governing the applicability and validity of marriage agreements, particularly the provisions set out in the Civil Code (KUHPerdata) and Law Number 1 of 1974 on Marriage. Meanwhile, the case approach is used to trace the application of legal norms in judicial practice by analysing court decisions that have acquired permanent legal force<sup>10</sup>.

The data used in this study are obtained from three categories of legal materials, namely primary, secondary, and tertiary legal materials. Primary legal materials include legislation that directly regulates the object of the research, such as Law Number 1 of 1974 on Marriage and the

Civil Code (KUHPerdata). Furthermore, secondary legal materials consist of various supporting literature sources, including legal books, scientific articles, and previous research findings that provide interpretations, views, and analyses of the provisions in the primary legal materials relevant to the research topic. Meanwhile, tertiary legal materials are obtained from reliable online sources, with the original sites cited, which serve to provide additional clarification and deepen the understanding of both primary and secondary legal materials.

The data collection method in this study is carried out through library research, namely by reviewing and examining various legal literature related to the research topic, including books, scientific journals, academic articles, and previous research findings. The aim is to identify theories, principles, norms, and the views of legal scholars that may serve as the basis for analysing and answering the legal issues raised<sup>11</sup>. Furthermore, the data analysis technique employs a qualitative descriptive approach, which is a method that seeks to describe, interpret, and present the results of the study systematically and objectively in order to obtain a comprehensive overview of the legal facts examined<sup>12</sup>.

## ANYLISIS AND DISCUSSION

### Legal Status of Marriage Agreements That Are Indicated to Mislead One of the Partners

In drawing up a marriage agreement, the parties must fulfil all the legal requirements for the validity of an agreement as stipulated in the Indonesian Civil Code. Article 1320 of the Indonesian Civil Code establishes four essential conditions for an agreement to be deemed valid and to possess legal force. First, consent must be obtained from persons who agree to bind themselves to one another. Second, the parties must have the legal capacity to enter into an agreement. Third, the agreement must contain a clear or defined object. Fourth, the agreement

<sup>9</sup> P Mahmud, *Penelitian Hukum*, 1st ed. (Jakarta: Kencana Prenada Media Group, 2005).

<sup>10</sup> M Achmad, Y., & Fajar, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

<sup>11</sup> D. D Sarjono, *Panduan Penulisan Skripsi* (Yogyakarta: Jurusan Pendidikan Agama Islam, 2008).

<sup>12</sup> S Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktik* (Jakarta: Rineka Cipta, 2010).

must have a lawful cause. The first two requirements, namely consent and capacity, constitute subjective criteria because they relate to the individual circumstances of the persons involved in the agreement. If either of these conditions is not fulfilled, the agreement may be annulled. Conversely, the latter two requirements, namely a specific object and a lawful cause, constitute objective criteria because they relate to the substance of the agreement. If either of these objective criteria is not fulfilled, the agreement is void by operation of law<sup>13</sup>. Therefore, these four criteria form the basis for assessing the validity and enforceability of an agreement within the framework of Indonesian civil law.

Although regulations have provided detailed provisions regarding the requirements for a valid agreement, in practice the possibility of deception within an agreement cannot be completely avoided. Yet one of the main determinants of the validity of an agreement is that it must be made consciously and without elements of error, coercive defects of will, or misleading fraud. Forms of deception in an agreement may manifest in various ways, such as concealing important facts, falsifying documents, providing false information, or making false promises intended to influence the will of the other party<sup>14</sup>. In the realm of Indonesian civil law, deception is classified as one form of defect of will as set out in Article 1321 of the Civil Code. In a marriage agreement, deception constitutes a fraudulent act committed by one party with the intention of misleading the other party into agreeing to an agreement which they might not have accepted had they been informed of the actual facts<sup>15</sup>. Deception may result in one party signing a contract without a comprehensive understanding of its consequences or with incorrect expectations. This may, of course, give rise to losses, not only material losses but also legal and reputational harm.

A marriage agreement that contains elements of deception against one of the parties generally indicates a lack of honesty and integrity in the formation of the contract. One of its primary forms is fraudulent conduct or the provision of non-transparent information, in which the party in the stronger position provides incomplete or even misleading statements, causing the other party to fail to fully understand the long-term implications of the agreement. This condition commonly occurs particularly in mixed marriages involving differences in language and culture, which increases the potential for concealing actual intentions, as evidenced by the case of Denis and Yeane in Court Decision Number 526/PDT/G/2012/PN.Jkt.Sel.

Based on Article 1328 of the Indonesian Civil Code (KUHPerdata), fraud (*bedrog*) may render an agreement voidable if one of the parties employs deceit or conceals essential facts in order to influence the other party to give consent. The case of Denis v. Yeane illustrates how misrepresentation in a marriage agreement may occur through the concealment of important facts and the manipulation of information by the more dominant party. In this case, the Defendant (Yeane) proposed the drafting of a marriage agreement one year after the marriage had taken place. She convinced the Claimant (Dennis) that the purpose of the agreement was merely to enable her to own shares in the family company. However, based on the results of the trial, it was revealed that the contents of the agreement in fact removed the Claimant's rights over joint property, as all assets acquired during the marriage were registered in the Defendant's name. The Defendant exploited the Claimant's limited language proficiency and lack of legal understanding, as he was a foreign national, thereby fulfilling the element of misrepresentation. The element of misrepresentation in the case of Denis v. Yeane was satisfied because the Defendant (Yeane)

<sup>13</sup> M Kosasih, J. I., & Sh, *Kausa Yang Halal Dan Kedudukan Bahasa Indonesia Dalam Hukum Perjanjian* (Sinar Grafika, 2021).

<sup>14</sup> Y Harahap, *Segi-Segi Hukum Perjanjian* (Sinar Grafika, 2006).

<sup>15</sup> Abdulkadir Muhammad, *Hukum Perdata Indonesia* (Citra Aditya Bakti, 2009).

deliberately concealed essential facts and provided misleading information to the Claimant (Denis), thereby influencing his will in agreeing to the marriage agreement.

The marriage agreement between Denis and Yeane reflects that the agreement was not drafted based on good faith. In every process of forming and implementing an agreement, the parties have a legal obligation to act in accordance with the principle of good faith. This principle affirms that no party is permitted to harm the other solely to obtain benefits from the agreement<sup>16</sup>. In this case, the principle of good faith was clearly violated, as Yeane intentionally misled Denis for unilateral gain, since the contents of the agreement were designed to deceive the Claimant by concealing the actual legal consequences of the marriage agreement. Furthermore, the marriage agreement between Denis and Yeane also violated the provisions of Article 29 paragraph (1) of the Marriage Law in conjunction with Article 147 of the Indonesian Civil Code, which require that a marriage agreement must be made before the marriage is solemnised, be set out in writing, be ratified by an authorised official, and not conflict with law, religion, or morality. In this case, it was established that the marriage between Denis and Yeane took place in 2002, while the deed of the marriage agreement was recorded only one year later, namely in 2003, and long before the enactment of Constitutional Court Decision Number 69/PUU-XIII/2015. Therefore, the marriage agreement did not legally meet the objective requirements stipulated by law and may thus be declared void by operation of law.

Apart from being void by operation of law, a marriage agreement that indicates misrepresentation may also be annulled through a court application if it is proven to violate the subjective requirements for a valid agreement, namely the consent and capacity of the parties, as

set out in Article 1320 of the Indonesian Civil Code. Such circumstances occurred in a case in Batam involving a husband and wife who married both religiously and civilly and executed a marriage agreement before a notary prior to the solemnisation of the marriage. The content of the agreement stipulated the absence of commingling of property, both with regard to premarital assets and assets obtained during the marriage. The issue arose because the wife signed the agreement in a pre-marital situation without fully understanding the legal consequences it entailed. She received only a unilateral explanation from her prospective husband, who stated that the agreement was intended to protect the family's assets from business risks. However, in reality, the contents of the agreement disadvantaged the wife as they removed her rights over joint property and imposed upon her all economic responsibilities, including household expenses, children's education, and post-divorce maintenance, unilaterally.

The losses suffered by the wife above constitute the result of a violation of the elements of the agreement, which is deemed defective and invalid if obtained through mistake, coercion, or fraud<sup>17</sup>. Although formally there is a signed agreement, such consent was not based on the wife's free will and adequate understanding. Pursuant to Article 1321 of the Indonesian Civil Code, a defective agreement may result in the annulment of the agreement if there are elements of *bedreiging* (threat), *bedrog* (fraud), or *dwaling* (error). Therefore, it can be concluded that *gene toesteming is van waarde, indien dezelve door dwaling is gegeven, door geweld algeperst, of door bedrog verkregen*, or that no agreement has legal force if it is given due to mistake, or obtained through coercion or fraud<sup>18</sup>.

As it has developed, misrepresentation rooted in a defect of will may also arise as a result

<sup>16</sup> T Mepharishvili, "The Principle of Good Faith in Contractual Relations," *ESI Preprints (European Scientific Journal, ESJ)* 21, no. 39 (2025): 162.

<sup>17</sup> S. B Sembiring, A. N., Sinaga, A. K., & Hariandja, "Analisis Yuridis Batalnya Perjanjian Pra-Nikah Dalam Perkawinan Campuran," *Jurnal Darma Agung* 27, no. 1 (2019): 774–84.

<sup>18</sup> W. A Sukananda, S., & Mudiparwanto, "Akibat Hukum Terhadap Perjanjian Yang Mengandung Cacat Kehendak Berupa Kesesatan Atau Kekhilafan (Dwaling) Di Dalam Sistem Hukum Indonesia," *Justitia Jurnal Hukum* 4, no. 1 (2020).

of the abuse of circumstances (*misbruik van omstandigheden*). This concept originates from doctrine and jurisprudence, which state that an agreement may be annulled if it is proven to meet two main elements, namely the existence of loss suffered by one of the parties and the presence of actions by the other party exploiting a particular situation or condition to obtain benefit<sup>19</sup>. Thus, a misleading marriage agreement may be submitted for annulment to the court because it is proven that there is a defect of will caused by misrepresentation supported by the abuse of circumstances.

Compared to the English legal regime which is highly restrictive in granting punitive damages, both in terms of their availability and the determination of their quantum, the Indonesian approach to damages in cases of misrepresentation in prenuptial agreements reflects fundamentally different characteristics<sup>20</sup>. Indonesia does not recognize punitive damages as a punitive instrument, so the dispute-resolution framework relies more heavily on the concept of tort (*perbuatan melawan hukum*) and the mechanism of contract annulment based on defects of consent under the Civil Code (KUHPerdata). However, the most significant difference is not merely the absence of punitive damages, but the absence of consistent standards in assessing losses, particularly immaterial damages, which are often the most prevalent in misrepresentation cases involving prenuptial agreements. Unlike England, which emphasizes moderation, limitations on quantum, and the principle of proportionality, Indonesian jurisprudence often displays irregularity in assessing non-material losses, resulting in unpredictable judgments that fail to provide any deterrent effect against

misrepresentation or abuse of circumstances. Thus, this comparison demonstrates that even though England heavily restricts punitive damages, its standards of consistency, moderation, and rationality in the assessment of damages may offer a relevant theoretical framework for improving legal certainty within Indonesian civil-law practice.

### **Legal Consequences of a Marriage Agreement That Is Suspected of Misleading One of the Partners**

The validity of a marriage agreement in Indonesia is legally protected by Article 29 Paragraph 1 of the Marriage Law, which allows both parties to make a written agreement with mutual consent before or during the marriage. This agreement must be legalised by a marriage registrar. The content of the agreement also applies to third parties for as long as the agreement remains in force. This implies that the law recognises the validity of marriage agreements, which are designed to protect both husband and wife<sup>21</sup>. Nevertheless, a marriage agreement may be annulled if it is deemed to contain misleading elements, as set out in Article 1328 of the Indonesian Civil Code. The court will evaluate the facts and evidence submitted in the case to determine whether the marriage agreement is null and void by operation of law and therefore unlawful, or whether it can be annulled<sup>22</sup>. Consequently, misrepresentation has legal and moral implications for the validity and binding force of a contract<sup>23</sup>.

Under Indonesian law, the settlement of disputes concerning the annulment of agreements may be resolved through mediation or litigation,

<sup>19</sup> D Arrodli, A. J., Ramadhan, A., Pamungkas, D. D., Muhammad, D. Z., & Anugrah, "Konsekuensi Hukum Cacat Kehendak Dalam Pembentukan Perjanjian Sesuai Pasal 1320 KUH Perdata," *Letterlijk* 1, no. 2 (2024): 204–16.

<sup>20</sup> Goudkamp, J. and Katsampouka, E. (2021), *Punitive Damages and the Place of Punishment in Private Law*. The Modern Law Review, 84: 1257-1293. <https://doi.org/10.1111/1468-2230.12654>

<sup>21</sup> Wahda Z. Imam Suwanti, M. Amin Hanafi, "Sosialisasi Perjanjian Pra Nikah Dalam Upaya

Perlindungan Terhadap Harta Perkawinan Dari Gangguan Pihak Ketiga Di Kota Ternate," *Jurnal Pengabdian Masyarakat* 1, no. 1 (2023): 23.

<sup>22</sup> L Nursyamsiah, A., Daming, S., & Ratnawaty, "Legal and Human Rights Review of The Implementation Of Prenuptial Agreements Based On The Principles Of Propriety, Fairness and Good Faith," *Jurnal Mahasiswa Yustisi* 1, no. 2 (2023): 7–12.

<sup>23</sup> M. Y Harahap, *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan* (Sinar Grafika, 2017).

subject to the consent of the disputing parties<sup>24</sup>. This method prioritises substantive justice over procedural justice so that the outcome of the settlement process is able to reflect a genuine sense of justice for all parties<sup>25</sup>. Under the prevailing legal provisions in Indonesia, the annulment of an agreement may be carried out in two ways. First, the agreement may be declared invalid and null and void by operation of law. Second, the agreement may be annulled based on the applicable provisions. The annulment process must follow the rules set out in the relevant legal provisions<sup>26</sup>. Therefore, a party who suffers loss in a misleading agreement may request the annulment of the agreement. The annulment of a marriage agreement has broader implications for the marriage as regulated under Law Number 1 of 1974 on Marriage. The provisions in the agreement, including the division of assets, inheritance rights, and other stipulations, become invalid<sup>27</sup>. The annulment of the agreement ensures that all assets acquired during the marriage, except personal assets, revert to joint property.

In legal practice, proving the existence of misleading elements is not an easy matter. The court will generally evaluate whether the actions of a party were intended to deceive and whether such actions were sufficiently significant to influence the decision of the aggrieved party. If proven, the agreement may be annulled by operation of law because it did not fulfil the elements of valid consent from the outset. In Court Decision Number 526/PDT/G/2012/PN.Jkt.Sel, the Deed of Marriage Agreement No. 44 dated 29 April 2003 between Denis and Yeane was declared null and void by operation of law because it contravened statutory regulations. The agreement was made one year after the marriage,

namely in 2003, and prior to the issuance of Constitutional Court Decision Number 69/PUU-XIII/2015, thereby violating the provisions of Article 29 Paragraph (1) of the Marriage Law and Article 147 of the Indonesian Civil Code. The agreement was also proven to contain elements of misrepresentation and abuse of circumstances by the wife, aimed at disadvantaging the husband by removing his rights over joint property through the manipulation of information. This condition rendered the agreement not only substantively defective but also null and void by operation of law due to its violation of statutory provisions. In the court proceedings, Yeane as the defendant failed to prove her defence, whereas Denis as the plaintiff succeeded in presenting convincing evidence. Therefore, the panel of judges ruled that the plaintiff's claim was proven lawfully and with legal merit.

Although the plaintiff also claimed damages based on tort (*perbuatan melawan hukum*), the court's reasoning did not address the broader issue of jurisprudential inconsistency within the Supreme Court regarding the assessment of immaterial damages. In cases of misrepresentation, immaterial losses such as loss of trust, emotional distress, and psychological trauma are often the most significant consequences experienced by the aggrieved spouse. However, Indonesian courts have yet to develop a consistent and predictable standard for evaluating such non-material harms. As a result, similar cases may yield widely divergent outcomes, ranging from the complete rejection of immaterial damages to the awarding of compensation in amounts that lack clear methodological justification. This structural inconsistency weakens the deterrent effect of civil

<sup>24</sup> B Maulana, R., & Bahreisy, "Analisis Tindakan Wanprestasi Terhadap Perjanjian Pemberian Kredit Pada PT. Bank Rakyat Indonesia Persero Tbk.(Studi Putusan Nomor 11/Pdt. GS/2020/PN Bir)," *Neoclassical Legal Review: Journal of Law and Contemporary Issues* 1, no. 2 (2022): 110–23, <https://doi.org/https://doi.org/10.32734/nlr.v1i1.9613>.

<sup>25</sup> D Prihatin, L., Amin, M., & Darmawan, "Implikasi Asas Proporsionalitas Dalam Wanprestasi: Suatu

Upaya Mewujudkan Keadilan Substantif," *Jurnal Ilmiah Ilmu Pendidikan* 6, no. 1 (2023).

<sup>26</sup> A Hamidah, E., & Silviana, "Upaya Hukum Pembatalan Perjanjian Perkawinan Studi Kasus Putusan Nomor 25/PDT. G/2013/PN," *TBN. Notarius* 17, no. 1 (2013): 391–400.

<sup>27</sup> N. W Sitepu, "Analisa Perlindungan Konsumen Sebagai Pengguna Information Technology and Communication," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 4, no. 2 (2020).

liability and creates legal uncertainty, particularly in disputes involving marital misrepresentation where the harm is predominantly personal and non-economic.

Another legal consequence arising from acts of misrepresentation in a marriage agreement is the potential imposition of civil liability in the form of an obligation to pay compensation. Normatively, legal responsibility attaches to every individual for actions that give rise to certain legal consequences, whereby a person may be subject to sanctions if their conduct contravenes the provisions of the applicable statutory regulations<sup>28</sup>. A marriage agreement containing misrepresentation may be categorised as an unlawful act if it is proven that there was manipulative deceit that influenced the consent of one of the parties. Thus, a party who knowingly commits manipulative acts that result in a defect of will in the other party and cause loss, whether material or immaterial, may be held legally liable. This is in line with the provisions of Article 1365 of the Indonesian Civil Code, which states that any unlawful act that results in loss to another person obliges the perpetrator to compensate for such loss<sup>29</sup>. Accordingly, acts of misrepresentation occurring in the making of a marriage agreement that cause loss, whether material or immaterial, to one of the spouses constitute conduct that violates the law and give rise to the obligation to provide compensation to the aggrieved party.

In the case of misrepresentation in the marriage agreement between Dennis and Yeane, it is clearly shown that the aggrieved party still retains the right to file a claim for damages based on Article 1365 of the Civil Code concerning Unlawful Acts (PMH), even though the marriage agreement has been annulled. This PMH claim can only be accepted if its four essential elements are fulfilled, the first of which is the existence of an unlawful act (PMH). This element is fulfilled through the conduct of the Defendant (Yeane), who intentionally concealed material facts

regarding the implications of the loss of rights to joint property and provided misleading information by stating that the agreement was merely for family shareholding purposes. This conduct meets the qualification of misrepresentation, which substantially violates propriety and good faith in legal and marital relations (Article 1337 of the Civil Code and Article 29 of the Marriage Law). Secondly, the existence of loss. The Plaintiff (Dennis) suffered material loss, which included the loss of his rights to joint property acquired during the marriage, even though the assets were purchased using his own funds, as all were registered in the name of the Defendant. There was also the unfair imposition upon him of the entire burden of household expenses and children's education, which should have been a shared obligation. Thirdly, the existence of a causal relationship or causation.

The doctrinal distinction applied in the judgment remains insufficiently sharp. Although the court referred to *misbruik van omstandigheden* (abuse of circumstances), it did not clearly differentiate this doctrine from *bedrog* (fraud). Fraud requires an active and intentional act of deception, whereas abuse of circumstances focuses on the exploitation of a party's vulnerability, dependency, or unequal position such as the linguistic and legal asymmetry present in Dennis's case. These two doctrines operate on different conceptual foundations and should therefore have been analysed separately within a clearer doctrinal framework. By conflating them, the court blurred the analytical boundaries between intentional deceit and opportunistic exploitation, producing a less rigorous legal reasoning than the circumstances required.

The losses experienced by Dennis, namely the loss of rights to property and the unilateral financial burden, were the direct result of the unlawful act committed by Yeane, namely misrepresentation through abuse of circumstances

<sup>28</sup> M Sopiyan, "Analisis Perjanjian Perkawinan Dan Akibatnya Menurut Undang- Undang Perkawinan Di Indonesia," *Misykat Al-Anwar: Jurnal Kajian Islam Dan Masyarakat* 6, no. 2 (2023): 175–90.

<sup>29</sup> A Miru, *Hukum Perikatan: Penjelasan Makna Pasal 1233 Sampai 1456 BW*, 6th ed. (Rajawali Pers, 2014).

or position. Had Yeane acted honestly and transparently, Dennis would not have signed the detrimental agreement, and the losses would not have arisen. Fourthly, the existence of fault. This element is fulfilled in the form of intent (*opzet*). Yeane, who understood the Indonesian language and the legal implications of the agreement, knowingly and deliberately exploited Dennis's vulnerability as a foreign national for unilateral financial gain. Conduct motivated in this manner clearly demonstrates the presence of intentional wrongdoing to harm another party, which constitutes a serious form of fault in civil law. With the fulfilment of all four elements, the claim for compensation based on an Unlawful Act against Yeane may be upheld by the court, irrespective of the consequences of the annulment of the agreement, which restores the parties to their original positions.

The overall legal consequences arising from this act of deception affirm the existence of legal protection for the disadvantaged party within the context of a prenuptial agreement. This effort upholds the principle of good faith, which serves as a fundamental basis in contract law to ensure the attainment of justice between the parties involved<sup>30</sup>. Through the mechanism of contract annulment, the law provides two forms of remedies. First, *vernietigbaar*, namely an agreement that may be annulled due to a defect of will such as mistake, coercion, or fraud<sup>31</sup>. Second, *nietig*, that is, an agreement that is null and void by operation of law because it fails to meet objective requirements, for instance being contrary to legislation, public order, or morality. In addition, the imposition of compensation under Article 1365 of the Indonesian Civil Code serves as a legal means to restore the balance between the parties and redress the position of the injured party. This mechanism also functions to create a deterrent effect and prevent exploitative practices that may undermine the integrity of an agreement.

Thus, the ideal application of the law, consistent with the principle of justice, can be realised.

## CONCLUSION

The legal position of a prenuptial agreement suspected of misleading one of the spouses carries clear legal consequences within the Indonesian civil law system. To be valid, such an agreement must fully satisfy both the subjective requirements consent and legal capacity and the objective requirements a defined object and a lawful cause set out in Article 1320 of the Indonesian Civil Code, in addition to adhering to the overarching principle of good faith. Misrepresentation, whether in the form of fraud, concealment of material facts, or abuse of circumstances, constitutes a defect of will under Article 1321 and therefore violates the subjective requirements of validity. A breach of these requirements renders the agreement annulable. Furthermore, when the defect concerns objective requirements for example, where a prenuptial agreement is executed one year after the marriage in violation of Article 29(1) of the Marriage Law the agreement becomes null and void *ipso jure*, as illustrated in Court Decision No. 526/PDT/G/2012/PN.Jkt.Sel.

Beyond annulment, deceptive conduct that causes harm to a spouse may also fulfil the elements of an unlawful act (*Perbuatan Melawan Hukum*) under Article 1365 of the Civil Code, enabling the aggrieved spouse to seek compensation. This remedy serves a dual function: it compensates losses and discourages exploitative practices in intimate contractual relationships. Annulment also restores assets to the status of joint marital property, thereby preventing unjust enrichment.

From a broader normative perspective, these legal consequences underscore Indonesia's commitment to transparency, equality, and good faith in family contracts. However, the current

<sup>30</sup> N. A Sinaga, "Implementasi Asas Kebebasan Berkontrak Pada Perjanjian Baku Dalam Mewujudkan Keadilan Para Pihak," *Jurnal Ilmiah Hukum Dirgantara* 9, no. 1 (2018).

<sup>31</sup> H Pratama, M. A., Zega, M. S., Muhdiya, I., Butar, H. F. B., & Maylafaiza, "Perjanjian Pranikah Dalam Perspektif Hukum Perdata Di Indonesia," *As-Syirkah: Islamic Economic & Financial Journal* 3, no. 3 (2024): 1556–1565.

framework still exhibits significant gaps, particularly the absence of consistent standards for assessing non-material damages an issue of central importance in cases involving misrepresentation, where emotional distress, loss of trust, and relational harm are more significant than material loss. Accordingly, the conclusion of this study must adopt a prescriptive stance.

It is recommended that the Indonesian judiciary develop clearer guidelines for determining non-material damages in cases arising from marital agreements to reduce jurisprudential inconsistency and strengthen deterrence against manipulative conduct. Additionally, courts should move toward a more explicit doctrinal recognition of *misbruik van omstandigheden*, ensuring that abuse of vulnerability is analytically separated from fraud and given independent normative weight.

At the policy level, reform is likewise essential. Lawmakers, both nationally and within regional or global forums should consider adopting stronger protective mechanisms for vulnerable parties in family contracts, such as harmonised standards for informed consent, enhanced procedural safeguards for foreign spouses, and mandatory notarial protocols in mixed marriages to prevent linguistic or informational asymmetry.

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