

CHAPTER V

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the discussion in Chapter Four, it could be concluded that:

First, the status of joint property in Islamic law and Indonesian law. in Islamic law the joint property in marriage is only the property of the husband. However, some scholars argue about the position of joint property in marriage. The scholars and Islamic jurists consider the absence of joint property in Islamic institutions except with the concept of *syirkah*. Joint property in Islam is a form of *syirkah* because *syirkah* is a form of cooperation or partnership between husband and wife, *Syirkah* is an engagement that is emerged from the existence of an agreement. Mainwhile in Indonesian law, in the provisions of the legislation, it is stated that joint property is the property acquired during the marriage and so it belongs to the husband and wife. This is in accordance with the provisions of the Law No. 1 of 1974 in Chapter VII Articles 35, 36 and 37 and the Compilation of Islamic Law Article 85 to Article 97. Based on the provisions of the law, the distribution of the joint property is done fairly, so would not cause any injustice between husband and wife.

Second, the procedures of the settlement of joint property disputes in the Bantul Religious Court is started with mediation. If the mediation is successful, then the case is completed but if it fails then it will proceed to the lawsuit reading. Next is the lawsuit answer or response. The lawsuit response is followed by counter-response and rebuttal. Submission of evidence is coming after rebuttal. After the evidentiary process is completed, the plaintiff and defendant will submit the conclusion. After a conclusion is completed, the panel judges' will conduct the judges' deliberation. The last stages of court hearing will be the court's judgment deliberation. Those are the stages of hearing in the religious court of the settlement of joint property disputes.

B. Recommendation

Based on the problem that has been discussed, it can be proposed with two recommendations. *First*, the sharing of joint property should be done through deliberation by considering the principle of justice between husband and wife. Fair distribution will avoid disputes. *Second*, the religious court must be careful in deciding a case of dispute settlement of the joint property to give a fair decision so that no parties would feel aggrieved over the decision, and the decision must also be in accordance with the law.