

LEGAL CONSEQUENCES OF INHERITANCE TRANSFERRED WITHOUT THE HEIRS' CONSENT (CASE STUDY NO.: 107/PDT.G/2019/PN. PLK)

Carren Catherina

Universitas Tarumanagara, Indonesia

Email: Carren1993@gmail.com

ABSTRACT

This research discusses the legal implications of inheritance transfer without the consent of heirs based on Study Verdict No. 107/Pdt.G/2019/Pn. Plk, the responsibility of the Land Deed Official (PPAT) in this process, and the inheritance system in Indonesia in accordance with Article 111 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Head No. 16 of 2021. The objectives are to analyze the legal consequences of transferring inheritance without heirs' consent, PPAT's responsibility regarding the deeds made, and the applicable inheritance system. The research aims to enhance knowledge on legal consequences and PPAT's responsibility and provide an understanding of Indonesia's inheritance system. The methodology is normative juridical with a descriptive approach, utilizing secondary legal materials through literature study and interviews. Conclusions indicate that the transfer of inheritance without all heirs' consent is invalid and can be annulled by the court, with PPAT holding significant responsibility to ensure the legality of the transfer process. Recommendations are provided for all parties to ensure compliance with legal procedures to protect heirs' rights and prevent legal disputes.

KEYWORDS *Inheritance Transfer, Heirs' Consent, PPAT Responsibility, Inheritance System*



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International

INTRODUCTION

The Civil Code regulates property law, including inheritance law, which covers the transfer of assets from the testator to the heirs. After the testator dies, his assets are passed on to the heirs. This transfer process can occur through grants, wills, or automatically through inheritance.

How to cite: Carren Catherina. (2024). Legal Consequences of Inheritance Transferred Without the Heirs' Consent (Case Study No.: 107/Pdt.G/2019/Pn. Plk). *Journal Eduvest*. 4 (7): 6296-6309
E-ISSN: 2775-3727
Published by: <https://greenpublisher.id/>

Heirs are family members who are entitled to receive the testator's property. The transfer of inherited property must be carried out and legalized by an authorized official before being processed at the Land Office. Inheritance law regulates the transfer of inherited property and its legal consequences for heirs, including the establishment of inheritance certificates.

According to the Civil Code, inheritance law is regulated in Book I and Book II. Book II, particularly CHAPTER XII to CHAPTER XVIII, covers various aspects such as inheritance due to death, wills, execution of wills, and separation of property. In Indonesia, there are three systems of inheritance law: western civil inheritance law, Islamic inheritance law, and customary inheritance law. Each system sets death as the trigger for inheritance and affects the division of the estate. The heirs must determine which inheritance law will be used in the division of the estate. Problems often arise when inherited land is sold without the consent of all heirs, which can lead to legal disputes. Land disputes often occur when one heir sells land without the consent of the other heirs.

The case analyzed in this research is Court Decision Number: 107/Pdt.G/2019/Pn.Plk., where there was a dispute regarding inherited property that was transferred without the consent of all heirs. Joint property that is not distributed after the death of one of the spouses becomes a source of problems when the testator dies. This research aims to analyze the legal consequences of the transfer of inheritance without the consent of the heirs. Based on the background explanation, the author feels interested in further analyzing the writing title, namely: Legal Consequences of Inheritance Transferred Without the Consent of Heirs (Study of Decision Number: 107/Pdt.G/2019/Pn. Plk).

RESEARCH METHOD

Legal research is a fundamental component of legal science that aims to identify problem solutions and reveal the truth about situations that are not carried out properly or as they should be. The author uses a normative juridical research approach in his research. Normative legal research considers law to be the same as written standards established and disseminated by authorized bodies or officials. This research is characterized as normative, practical, and prescriptive.

This strategy involves obtaining legal materials using the following process:

1. Type of Research

The research methodology used in this research is normative legal research. To solve certain problems, legal scholars systematically investigate various laws, codes, and legal principles.

2. Nature of Research

The author uses descriptive research features in this research. Descriptive research aims to collect very precise data about individuals, circumstances, or other phenomena.

3. Data Type and Source

"The legal material used is classified as secondary legal content. Secondary legal publications cover a variety of topics and information, which include official documents, books, tangible research results, reports, diaries and so on. In legal research, secondary legal materials include:

- a. Primary legal materials are binding legal materials, among others:
 - 1) Constitution of the Republic of Indonesia 1945.
 - 2) Civil Code (KUHPerdata);
 - 3) Law No. 5/1960 on the Basic Regulation of Agrarian Principles;
 - 4) Government Regulation No. 24 of 1997 on Land Registration;
 - 5) Law of the Republic of Indonesia Number 30 Year 2004 on Notary Position;
 - 6) Decision of the Palangkaraya District Court Number: 107/PDT.G/2019/PN. PLK.
 - b. Secondary legal materials used in this research include law books, internet sources, articles, and scientific publications relevant to this research.
 - c. Tertiary legal materials used in this research are materials that provide explanations and instructions on primary and secondary legal materials.
4. Data Collection Technique

In this research, the data collection tool used is *library research*. Library study is a method of collecting data by collecting documents, books, and other literature. The author also uses a *statute approach* and a study of court decisions. To be able to support the data obtained through literature study, the author also uses interviews as a data collection technique in writing this thesis.

5. Data Analysis Technique

This research uses qualitative analysis as its data analysis technique. Qualitative data analysis tools explain the idea of a problem, but are not accompanied by data in the form of numbers. Data collection is done by examining legal materials through methods or literature studies. Then a data analysis and grouping is carried out which aims to understand and solve the problem under study. Qualitative research requires order, order and thoroughness in thinking about the relationship between data and others, where the context is a problem to be studied.

RESULT AND DISCUSSION

Theory of Land Rights

Definition of Land

Soil has an important role in fulfilling the needs of human life. The definition of land according to KBBI includes the surface of the earth, the state of the earth in a place, land, and as material from the earth such as sand and marl. The 1997 Land Registration Act defines land as a distinct and limited part of the earth's surface, including the space above and within it.

Land plays an important role in meeting the needs of housing and businesses, such as agriculture. Therefore, land utilization must be regulated for the prosperity of the people. Article 33 of the 1945 Constitution states that the state controls and maintains land for the prosperity of the people.

Land in the UUPA

Law Number 5 of 1960 (UUPA) regulates land law in Indonesia, including land registration and the hierarchy of land rights:

- Rights of the Indonesian Nation: The supreme right of control over land in the entire territory of Indonesia, stipulated in Article 1 of the UUPA.
- Right of Control of the State: The state regulates the allotment and utilization of land for the prosperity of the people, stipulated in Article 2 of the UUPA.
- Customary Land Rights of Indigenous Peoples: The rights and responsibilities of indigenous peoples over land, regulated in Article 3 of the UUPA.

Land rights are divided into primary rights (long-term and inheritable) such as Hak Milik, Hak Guna Usaha, Hak Guna Bangunan, and Hak Pakai, and secondary rights (periodic) such as Hak Gadai and Hak Usaha Bagi Hasil.

Types of Land Rights

Article 16 Jo Article 53 of the UUPA categorizes land rights into:

- Permanent rights: Valid for as long as the UUPA is in force, including Hak Milik, Hak Guna Usaha, Hak Guna Bangunan, Hak Pakai, and Hak Sewa Bangunan.
- Temporary rights: Temporary rights, including mortgage rights, sharecropping rights, and hitchhiking rights.

Land in the Job Creation Law Number 11 of 2020

The Job Creation Law adds a new regulation on the Right to Space. Land or space above and below the ground can be granted building use rights, use rights, or management rights for certain activities.

Function of Land Rights Certificate

Land title certificates are strong evidence of land ownership, with physical and juridical data recognized unless proven otherwise. These certificates are regulated in Government Regulations Number 10 of 1961 and Number 24 of 1997, which provide strong evidence in a negative issuance system with positive aspects.

Overview of Inheritance Law, Population Classification, Certificate of Inheritance, and Notary Authority

Inheritance Law

Inheritance law regulates the distribution of a deceased person's property to his or her heirs. In Indonesia, there are three systems of inheritance law: customary law, Islamic inheritance law and civil law. The use of the legal system depends on the religion and custom of the testator. Inheritance law is very important but often poorly understood by the community, which can lead to conflict if not applied correctly.

Heirs

Heirs are individuals who legitimately receive property from the testator. The distribution of inheritance is regulated in Book II of the Civil Code for non-Muslims, while Islamic law or customary law is used for Muslims.

Definition of Inheritance Law

- Prof. Gregor Van Der Burght: The law that regulates the legal consequences of the transfer of the property of a deceased person to his heirs.
- Prof. R Wirjono Prodjodikoro: The law that regulates the transfer of property from the testator to the heirs.
- Pitlo: The law governing the transfer of wealth left by the deceased and the consequences of this transfer for the beneficiaries.

Transfer of Land Title

The transfer of land ownership rights due to inheritance is regulated in UUPA No. 5 of 1960 and Article 111 of the Regulation of the Minister of Agrarian Affairs/Head of BPN No. 3 of 1997. The process of registering the transfer of rights requires a land certificate, death certificate, and proof of heirs. If there is more than one heir, the division of rights can be done in accordance with the deed of inheritance division.

Certificate of Inheritance (SKW)

SKW is required to transfer the inherited property to the legal heirs. The SKW can be issued by a notary or other authorized official, and serves as valid evidence for the registration of the transfer of inheritance rights.

Notary Authority

Notaries have the authority to make inheritance distribution deeds and inheritance certificates for indigenous groups. The role of notaries is very important in ensuring the validity of inheritance documents and preventing disputes.

Case Position

1. Parties:

○ **Plaintiff:**

1. Herman Setiawan (Plaintiff I)
2. Fredy Jusef Suhairman (Plaintiff II)
3. Herutsettanty (Plaintiff III)
4. Heydi Sadublin (Plaintiff IV)
5. Hirman Thusun (Plaintiff V)
6. Astia Karla (Plaintiff VI)

○ **Defendant:**

1. Mirawati (Defendant I)
2. Yuniowaty (Defendant II)
3. Wesel Dj. Bahen (Defendant III)
4. Murtono, St. (Defendant IV)
5. Itar Kaiman (Defendant V)
6. Dursam, S.H. (Co-Defendant I)
7. BPN of Palangka Raya City (Co-Defendant II)

2. Sitting of the Case:

- **Marriage and Children:**
 - The marriage of Dehel J. Bahen and Ruthilda produced six children (the plaintiffs).
 - Ruthilda died in 2014; Dehel J. Bahen remarried to the 1st Respondent.
 - **Joint Property:**
 - In the form of a Toyota Kijang car, several plots of land, and others.
 - This property has not been divided and is still controlled by the respondents.
 - **Lawsuit:**
 - The plaintiffs demanded the division of the inheritance.
 - Claimed that the defendants controlled the property without the consent of the other heirs.
 - **Loss:**
 - Cars, land and other assets have been controlled by the defendant, causing material losses to the plaintiffs.
 - **Application:**
 - The plaintiffs asked the court to declare them the legal heirs and return the inheritance.
3. **In Exception:**
- Defendants I, IV, V, and Co-Defendant I filed an exception questioning the difference between the court order and the PMH claim, but this exception was rejected because it related to the inheritance dispute.
 - Other exceptions including claims of the location of the disputed object and the legal relationship with the disputed object are rejected because the object is located in the territory of the Palangkaraya District Court and the legal relationship has been explained in the lawsuit.
 - The obscure libel exception was rejected even though there was a difference in land area, considered a clerical error.
4. **In the Subject Matter:**
- The Plaintiff's claim regarding the inheritance dispute over the property of the late Dehel J. Bahen and the late Ruthilda, including one car and some land, is well explained in the complaint.
 - The local inspection found unclear location and boundaries of the disputed object as well as control of the disputed object by various parties, so the lawsuit was considered unclear and unacceptable.
 - The Panel of Judges declared the lawsuit inadmissible and ordered the Plaintiff to pay court costs of Rp3,088,000.
5. **Verdict:**

- Reject the exceptions of Defendants I, IV, V, Co-Defendant I, and Co-Defendant II.
- Declare the Plaintiff's claim inadmissible.
- Punish the Plaintiff to pay court costs in the amount of Rp3,088,000.

Interview Data

1. Tyo S.H. / National Land Agency

Based on the author's interview with Mr. Tyo, a staff member of the East Jakarta BPN, an in-depth description of the mechanism for transferring land rights, especially those relating to inheritance, was obtained. Mr. Tyo explained that the process of registering the transfer of land rights is strictly regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia. This regulation has undergone several changes, with the latest update being Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 on the Third Amendment to Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on the Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration. This regulation aims to clarify and tighten the land registration process to ensure legal certainty.

Mr. Tyo explained that Article 94 paragraph (1) of the regulation stipulates that the maintenance of land registration data is carried out by registering changes in physical data and/or juridical data of registered land registration objects by recording them in the general register. This includes the registration of data changes that occur due to inheritance. The juridical data changes referred to in this article are further explained in paragraph (3), including the transfer of rights due to inheritance.

When heirs wish to register the transfer of Land Rights, they are required to attach various supporting documents. These documents include the Land Rights Certificate, proof of land ownership, a death certificate in the name of the right holder listed in the relevant certificate from the head of the village/lurah where the heir lived at the time of death, hospital, health officer, or other authorized agency, as well as a proof letter as the heir which can be in the form of a will, court decision, or notarial deed.

Mr. Tyo emphasized the importance of attaching these documents to ensure the authenticity and validity of all papers involved in the title transfer process. This inspection and verification process is very important to prevent unauthorized parties from trying to use the documents for personal gain, which could ultimately harm the legal heirs and lead to disputes in the future.

According to Mr. Tyo, one of the most common issues that often arises in the community is disputes related to the transfer of rights over inherited land. These disputes are often caused by mistakes in the title transfer process, where not all heirs are involved or give their consent. Therefore, the role of BPN is very important in resolving this issue. One of the steps that BPN can take is to facilitate mediation between the disputing parties. This mediation is regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of

the Republic of Indonesia Number 21 of 2020 on Handling and Settlement of Land Cases, which requires the presence of all parties involved in the dispute.

Mr. Tyo also explained that the BPN mechanism in handling disputes between heirs related to the transfer of land rights is part of the effort to provide legal certainty and organize a transparent and fair land policy. The process of recording the transfer of rights is carried out based on the application submitted by the applicant or his/her proxy. The BPN will scrutinize each application file to ensure that all requirements have been met in accordance with the applicable provisions. In this case, Article 111 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 is the main reference.

Revocation of a granted certificate of ownership is the authority of the BPN if the transfer of rights carried out by one of the heirs has an adverse impact on other heirs. The certificate can be revoked if the issuance is determined to be an administrative error or juridical error, or if there is a court decision that has permanent force mandating its revocation. Regulation No. 21 of 2020 issued by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia regulates the handling and settlement of land cases and regulates the process.

In addition, BPN also cooperates with law enforcement and other relevant institutions to handle cases of land rights transfer. This cooperation includes investigation, prosecution and prevention of cases involving unauthorized transfer of rights or conducted in ways that harm other parties. BPN ensures that every application for transfer of rights is carefully scrutinized and processed in accordance with applicable legal provisions.

Mr. Tyo emphasized that the frequent occurrence of disputes related to the transfer of land rights, especially in the context of inheritance, shows the need for vigilance and caution in carrying out the transfer of rights. He suggested that the public should not easily trust information other than that provided by the BPN when undertaking any legal action, including the transfer of rights. This is important to avoid irresponsible individuals or land mafia that can harm legitimate parties.

Overall, the land title transfer mechanism must be done carefully and in compliance with all applicable legal provisions to avoid disputes. The heirs should understand the correct procedures and involve the BPN in every stage of the title transfer to ensure that all processes proceed in accordance with the law. Thus, legal certainty and justice for all parties involved can be assured.

2. Gunawan Djajaputra / Tangerang Notary

The correct and legal transfer of land rights requires compliance with certain legal requirements. Law No. 5/1960 on Basic Agrarian Principles and Government Regulation No. 24/1997 on Land Registration are the two laws that regulate the transfer of land rights. All issues relating to the transfer of land rights, including those arising from inheritance, are basically regulated in these two regulations.

The role of a notary in the process of transferring land rights is very important to ensure that the transfer is carried out in good faith and in accordance with the rule of law. The role of a notary is to provide legal counseling to the heirs regarding the procedures for transferring rights in accordance with applicable legal

provisions, as well as ensuring that each transfer of rights does not violate the rules, so as to prevent disputes in the future.

To prevent disputes, notaries need to verify the documents and information submitted by the heirs in the process of transferring rights. The stages carried out by the notary include checking the original documents of the heirs such as KTP, NPWP, Family Card, Birth Certificate, Death Certificate of the Heir, Certificate of Heirs, and Land Certificate. These documents are needed to ensure the identity of the heirs and the legality of the land ownership to be transferred.

After checking the documents, the notary submits a request to check the authenticity of the certificate to the National Land Agency (BPN) to ensure that the proposed land certificate is not fake and is still valid. This process is very important to prevent unscrupulous individuals from using the document for personal gain, which can have negative and detrimental effects in the future.

Next, the notary submits an application for registration of the transfer of rights due to inheritance at the BPN. The BPN then conducts further checks to ensure that all requirements have been met. While maintaining the interests of all parties, the Notary must act in a trustworthy, honest, thorough, independent and impartial manner if he or she suspects that there is an attempt to harm the heirs of the testator's property during the transfer of land rights. This is in line with letter a of Article 16 of the Notary Position Law. Here the Notary can stop the transfer of property rights if he finds evidence that one of the heirs is harming the other heirs.

Many cases of disputes occur due to fraud by the heirs during the process of transferring rights. Therefore, notaries provide advice to the public to avoid adverse situations in the context of inherited property. Inherited property often causes problems between heirs. To avoid these problems, heirs who wish to transfer land rights from the inherited property should first consult a notary for legal advice. Especially when it comes to controversial topics regarding the division of inheritance.

The heir's Land Rights Certificate, proof of land ownership, death certificate, and heir's certificate are the documents required before the inheritance can be transferred. These documents must be attached for inspection and verification by the BPN. The BPN will check the data in the land application and Land Book to ensure the authenticity and validity of the documents. This is to avoid unscrupulous individuals using the documents for personal gain, which could have a negative and detrimental impact in the future.

There are several conditions that can cancel a person's status as an heir, including administrative defects, juridical defects, and court decisions. Administrative defects are errors or discrepancies in the documents submitted that can lead to the cancellation of heir status. Juridical defects are violations of applicable laws or regulations in the process of transferring rights that can lead to annulment. If there is a lawsuit in court from a party who feels aggrieved and the court decision states that the transfer of rights is invalid, then the heir status can be canceled.

When it comes to conflicts over the transfer of land rights, the role of BPN is very important. Number 21 of 2020, which is a Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic

of Indonesia, regulates the BPN's mechanism in handling disputes between heirs regarding the transfer of land rights. To help the disputing parties reach a mutually beneficial and fair settlement, BPN can mediate the process. If one heir transfers his or her rights in a way that is detrimental to the other heirs, then the transfer cannot take place, and the BPN has the authority to cancel the Certificate of Title. This is done to ensure fairness for all heirs and avoid future disputes.

To avoid disputes related to the transfer of land rights, notaries suggest that the heirs reach an agreement in advance regarding the division of the inheritance. In accordance with applicable legal provisions, the heirs can request a notary to draw up a deed of inheritance division. The notary and BPN should review and verify all requested documents. Do not easily believe information other than that provided by the BPN when carrying out any legal action, including the title transfer process. By following the correct procedures and involving the BPN in every stage of the title transfer, legal certainty and justice for all parties involved can be assured, as well as reducing the risk of future disputes.

The role of Notaris and BPN in ensuring fairness and legal clarity in the transfer of land rights is crucial as they provide legal counseling and conduct careful document verification. To ensure a fair and legal process, it is important to have clear regulations and procedures regarding the transfer of land rights due to inheritance. The protection of the rights of successors and the avoidance of future disputes highlight the importance of this. Therefore, everyone, including the heirs, needs to be aware of and adhere to the established protocols in the transfer of land rights to avoid disputes and legal issues in the future.

Legal consequences of inheritance transferred without the consent of the heirs in Decision Study Number: 107/Pdt.G/2019/Pn. Plk.

Based on the theoretical analysis in Chapter II and the research data in Chapter III, the author analyzes the legal consequences of inheritance transferred without the consent of the heirs in Decision Number: 107/Pdt.G/2019/Pn. Plk.

Heirs are individuals or entities who are legally entitled to inheritance after the testator dies. Indonesia has several inheritance law systems, namely civil law, Islamic inheritance law, and customary law, all of which are based on blood relations and regulate the position of heirs. In Indonesian civil law, the right to inherit and manage inherited property is a basic principle.

In Decision Number: 107/Pdt.G/2019/Pn. Plk, the main issue was the transfer of inheritance rights without the consent of all heirs, which according to inheritance law theory must be approved by all legal heirs. Without this consent, the transfer of rights is considered invalid and can be canceled.

Aggrieved heirs can sue to stop the unauthorized transfer of rights and claim back their inheritance. The court will assess the evidence and decide on the validity of the title transfer.

The legal consequences of the transfer of inheritance without the consent of the heirs include the cancellation of the transfer of rights, the return of the transferred property, and the possibility of legal sanctions against the party who made the transfer. Cancellation means that all legal actions related to the transfer

are considered to have never existed, and the rights to the inherited property are returned to the heirs according to the law.

PPATs play an important role in the process of transferring land rights due to inheritance, and must comply with applicable procedures and regulations. If PPATs are negligent, they may be subject to legal sanctions and liable for any losses incurred.

This case demonstrates the importance of understanding and following legal procedures in the transfer of inheritance rights to protect the rights of heirs and prevent disputes. Through in-depth understanding and proper application of the law, conflicts in inheritance can be minimized.

Notaries also have a crucial role in ensuring that all title transfer processes and documents are fulfilled according to the law. Notaries must maintain objectivity, protect the interests of related parties, and comply with the obligations and prohibitions stipulated in the UUJN.

In this case, the Defendants' act of taking control of the estate without the Plaintiffs' consent was illegal and unlawful. The estate must be divided according to the law, and the act of transfer without consent is voidable.

This analysis confirms that each heir has equal rights to the testator's estate, and any transfer of rights must be made with the consent of all heirs to ensure fairness and legal certainty. This case underscores the importance of properly understanding and applying inheritance law to protect heirs' rights and prevent disputes.

PPAT's responsibility for the transfer of inheritance without the consent of the heirs is related to the deed that has been made.

The author discusses the responsibilities of the Land Deed Official (PPAT) in the transfer of inheritance without the consent of the heirs, based on theory and research data. Notaries and PPATs play an important role in ensuring that the transfer of rights is carried out in accordance with the law by verifying documents and obtaining the consent of all heirs. PPAT negligence can result in legal disputes.

In the case of transferring inheritance rights without the consent of all heirs, such actions violate the law, especially Article 833 of the Civil Code which states that heirs automatically get property rights over the testator's property. This action can be considered unlawful and the heirs have the right to file a lawsuit to cancel the transfer.

The case example in decision Number: 107/Pdt.G/2019/Pn. Plk shows how the estate of PARA PENGUGAT's parents was controlled by PARA TERGUGAT without their consent, reflecting PPAT's negligence in ensuring the consent of all heirs. The PPAT is responsible for verifying all documents and ensuring that the title transfer process is legally valid.

The authentic deed drawn up by a PPAT must include all relevant facts, including the identity of the heirs and evidence of consent from all heirs. If consent is not given by all heirs, the transfer of rights is invalid and can be canceled.

In conclusion, the responsibility of PPATs in the transfer of land rights is crucial to prevent legal disputes and protect the rights of heirs. PPATs must ensure

all legal procedures are properly followed and all entitled parties give their consent before the authentic deed is made.

The inheritance system applicable in Indonesia relates to Article 111 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 16 of 2021.

Based on the theoretical review in Chapter II and the research data in Chapter III, the author analyzes the inheritance system in Indonesia related to Article 111 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN Number 16 of 2021. The author discusses the position of the heir, which is the individual who legitimately receives the inheritance after the testator dies. The position of the heir determines the recipient and distribution of the inheritance.

In Indonesia, inheritance law is governed by customary law, Islamic inheritance law, and civil law. Each type of law regulates the distribution of inheritance according to the provisions and circumstances of the testator's family. Civil law, for example, regulates the rights and responsibilities of heirs as well as the procedure for distributing inheritance in the Civil Code. Article 111 of the regulation states that the transfer of land or property rights without the consent of the legal heirs is considered invalid and can lead to legal disputes.

In the analyzed cases, the transfer of land rights without the consent of the heirs caused legal problems. For example, in decision No. 107/Pdt.G/2019/Pn. Plk., the transfer of rights without the consent of all heirs is considered a violation of inheritance law, so the court can cancel the transfer. Notaries and Land Deed Officials (PPAT) have an important role in ensuring that all title transfer processes are legal and in accordance with the law.

Notaries and PPATs must verify the documents and consent of all heirs before the transfer of rights takes place. Negligence in this duty may subject them to legal sanctions. The transfer of rights through inheritance is regulated by UUPA no. 5 of 1960 and Regulation of the Minister of Agrarian Affairs/Head of BPN No. 3 of 1997, which requires that all rights transfer processes be transparent and lawful.

The principles of legal clarity and protection of heirs' rights are very important in the transfer of rights through inheritance. Notaries and PPATs must ensure the consent of all heirs before the transfer of rights takes place to prevent legal disputes. Estate assets, including freehold land, can only be transferred to legal heirs through inheritance in accordance with the provisions of the law.

CONCLUSION

The legal consequences of the transfer of inherited property without the consent of the heirs, as described in Decision Number: 107/Pdt.G/2019/Pn. Plk, shows that the action is considered invalid and can be canceled by the court. Indonesian inheritance law states that each heir is entitled to an equal share of the inherited property. Unilateral actions in the transfer of rights violate the rights of the heirs and can result in the cancellation of the transfer of rights, the return of property, as well as legal sanctions for the party who made the transfer without consent. It is important for Land Deed Officials (PPATs) and notaries to ensure all legal procedures are followed and the consent of all heirs is obtained to protect the

rights of heirs and prevent legal disputes. PPATs have a huge responsibility in verifying the validity of documents and ensuring that all heirs have given their consent before creating the authentic deed. Negligence in this duty can lead to the cancellation of the deed and lawsuits from heirs whose rights have been violated. Article 111 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 16 of 2021 stipulates that the transfer of land rights due to inheritance must fulfill certain conditions and be accompanied by valid evidence. The inheritance system in Indonesia includes customary law, Islamic inheritance law, and civil law, each of which has provisions regarding inheritance rights and their distribution. Notaries and PPATs must ensure that all necessary documents and approvals have been fulfilled before the transfer of rights takes place to maintain legal certainty and protect the rights of the heirs.

Based on the conclusions that have been outlined, it is important for all parties involved in the inheritance process, including heirs, notaries and Land Deed Officials (PPAT), to consistently ensure that every step of the transfer of rights is carried out in accordance with applicable regulations. Heirs should have a clear understanding of their rights and the procedures to be followed in the distribution of inheritance. Notaries and PPATs should carry out their duties with care and caution, ensuring that all documents are properly verified and all heirs give their consent before the title transfer process is carried out. In addition, legal education to the public on the prevailing inheritance system and the importance of compliance with legal procedures is essential to prevent future disputes. Thus, legal certainty and justice in the inheritance process can be realized, and the rights of the heirs can be well protected.

REFERENCES

- Benny Djaja dan Nada Salsabila, Pembekalan Hukum Mengenai Hibah, Wasiat, dan Waris Kepada Jemaat Paroki Kedoya Gereja St. Andreas, *Jurnal Bakti Masyarakat Indonesia*, Volume 4, Nomor 3, November 2021, hal. 574-575.
- Ida Ayu Putu Suwarintiya, I ketut Sukadana dan Ni Gusti Ketut Sri Astiti, Penguasaan Tanah Warisan Yang dikuasai Tanpa Persetujuan Ahli Waris Lain, *Jurnal Analogi Hukum*, Volume 1, Nomor 1, 2019, hal. 100.
- Maman Suparman, *Hukum Waris Perdata*, (Jakarta: Sinar Grafika, 2015), hal 5.
- Irma Devita Purnamasari, *Kiat-Kiat Cerdas, Mudah, dan Bijak Memahami Hukum Waris*, (Bandung: PT. Mizan Pustaka, 2014), hal. 3.
- Ni Made Eka Yanti Purnawan, Penjualan Harta Waris Berupa Tanah Tanpa Adanya Persetujuan Ahli Waris Lainnya, *Acta Comitas: Jurnal Hukum Kenotariatan*, Volume 5, Nomor 2, Agustus 2020, hal. 311.
- Soerjono Soekanto, *Metode Penelitian Hukum*, (Jakarta: Rajagrafindo Persada, 1982), hal. 132.
- Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, (Yogyakarta: Liberty, 1998), hal. 52.
- Sarwono, *Hukum Acara Perdata*, (Jakarta: Sinar Grafika, 2011), hal. 31..
- Adrian Sutedi, *Peralihan Hak Atas Tanah dan Pendaftarannya*, (Jakarta: Sinar Grafika, 2007), hal.58

- Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentuk Perundang-undangan Pokok Agraria, Isi dan Pelaksanaannya*, (Jakarta: Djambatan, 2007), hal. 507
- Soeroso, *Pengantar Ilmu Hukum*, (Jakarta: Sinar Grafika, 2006), hal. 295.
- Jazim Hamidi, *Revolusi Hukum Indonesia: Makna, Kedudukan dan Implikasi Hukum Naskah Proklamasi 17 Agustus 1945 dalam Sistem Ketatanegaraan RI*, (Yogyakarta: Konstitusi Press & Citra Media, 2006), hal. 200.
- Vina Akfa Dyani, *Pertanggungjawaban Hukum dan Perlindungan Hukum bagi Notaris dalam Membuat Party Acte, Lex Renaissance, Volume 2, Nomor 1, Januari 2017*, hal. 165.
- Hans Kelsen, *Pure Theory of Law*, Terjemahan oleh Raisul Muttaqien, *Teori Hukum Murni: Dasar-Dasar Ilmu Hukum Normatif*. Cetakan Keenam, (Bandung: Penerbit Nusa Media, 2008), hal. 136.
- Salim dan Erlis Septiana Nurbani, *Penelitian Teori Hukum Pada Penelitian Disertasi dan Tesis (Buku Kedua)*, (Jakarta: Rajawali Pers, 2014), hal. 208.
- Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, (Jakarta: Kencana Pranada Media Group, 2008), hal. 158..
- Satjipto Rahardjo, *Ilmu Hukum*, (Bandung: Citra Aditya Bakti, 20006), hal. 146.
- Gunawan Widjaja, Lon Fuller, *Pembuatan Undang-Undang dan Penafsiran Hukum*, *Law Review, Volume VI Nomor I, Juli 2006*, hal. 20.
- Sidharta Arief, *Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum dan Filsafat Hukum*, (Bandung: PT Refika Aditama, 2007), hal. 8.
- Mario Julyanto dan Aditya Yuli Sulistyawan, *Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum*, *Jurnal Crepido: Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat dan Ilmu Hukum, Volume 01, NOMOR 01, Juli, 2019*, hal. 14.
- Achmad Ali, *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*, *Op.Cit.*, hal. 95.
- Peter Mahmud, *Penelitian Hukum, Cetakan ke-7*, (Jakarta: Kencana Prenada Media Group, 2016), hal. 59-69.
- Habib Adjie, *Hukum Notaris Indonesia tafsir Tematik terhadap UU No.3 tahun 2004 tentang Jabatan Notaris*, (Bandung: Refika Aditama, 2011), hal. 15