

**SETTLEMENT OF INHERITANCE DISPUTES DUE TO A WRITTEN WILL
GRANTING INHERITANCE RIGHTS TO OTHER THAN HEIRS**

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ABSTRACT; *This research discusses the settlement of inheritance disputes arising from written wills that grant inheritance rights to parties other than legal heirs. In Indonesia, wills often trigger conflicts due to differences between the testator's wishes and applicable legal provisions. Many heirs feel aggrieved or dissatisfied with the distribution of assets, leading to disputes that end up in legal proceedings. This study uses a normative juridical method with a conceptual and legislative approach to analyze the legal position of a will, the role and authority of judges in handling disputes involving non-heirs, and understanding how the testator's will can be legally recognized without violating the heirs' rights. Through a case study of Decision Number 307/PDT.G/2021/PN JKT.SEL, this research is expected to contribute to the understanding of inheritance law, provide fair solutions in inheritance disputes, and clarify the role of wills in the Indonesian legal system.*

Keywords: Inheritance, Heirs' Rights, Legitieme PortiE

INTRODUCTION

The This research discusses the settlement of inheritance disputes caused by written wills that give inheritance rights to people other than absolute heirs. Inheritance disputes related to wills are a frequent problem in Indonesian inheritance law. A will is a document that records the testator's wishes regarding the distribution of the property left behind. This document is often a source of conflict between heirs. Inheritance disputes can arise for various reasons, such as the desire to control the inherited property or maintain the rights that have been obtained. The Big Indonesian Dictionary says that "dispute" means contention or disagreement. In terms of inheritance, a dispute is a dispute related to the division of property carried out in accordance with the applicable inheritance law. Heirs who are dissatisfied with the way the estate is divided can base their disagreement on the contents of the testator's will, in addition to the inheritance law used. Heirs who are dissatisfied with the division of property can file an inheritance dispute "Anyone who claims to have a right, or states an act to establish his right or to dispute the rights of others, must prove the right or the existence of the act", according to Article 163 HIR / 283 RBg. There are many inheritance disputes due to unfair distribution of inheritance. Despite the fact that a large amount of research has been done on inheritance disputes, this problem still exists and may continue to increase. In Islamic inheritance law, the proportion to be divided and who is entitled to receive the inheritance has been determined. However, this is different from the mechanism of inheritance distribution according to customary law, where the provisions are not absolute. Customary law follows a system where those who are more in need will get a larger share.

Article 875 of the Civil Code states that “All property left by a person who dies belongs to his heirs according to the law, to the extent that he has not made a valid decree regarding it. In the context of article 875, a will or testament can be revoked.” To make a will, there are formal and material requirements from Article 879 - Article 916. In the practice of civil inheritance law, a will becomes the main foundation because it reflects the testator's last will and testament to his/her estate. However, the validity of the will must be in accordance with the law, so if the contents and distribution in the will violate the legal provisions that protect the rights of the heirs, then the will is invalid. This principle is based on the absolute right of heirs stipulated in Article 913 of the Civil Code, which cannot be violated by a will. This absolute right is a fundamental right for the heirs, and if it is harmed by the will, then the will cannot be applied. Conflicts arising from wills are violations of the rights of the heirs or there is uncertainty in the interpretation of the testator's wishes such as the validity of the will, the contents of the will, and the interpretation of the will. In this research, an analysis will be carried out on Decision Number 307/PDT.G/2021/PN JKT.SEL with a case chronology in the form of this inheritance dispute case originated from the existence of a Testament Deed No. 04 made by the deceased Mrs. Hanna Soehono on August 08, 2019 before Notary Marlina Flora, SH. In the will, Mrs. Hanna Soehono appointed Plaintiff I and Plaintiff V as executors of the will. However, Defendant I took control of the inherited house without giving it to Plaintiff I and Plaintiff V. Although Plaintiff V was not a direct heir, as the executor of the will, she attempted to manage the inheritance for distribution to the heirs. However, the attempts to distribute the inheritance were always thwarted by the Defendants for various reasons.

The Defendants challenged the existence of Plaintiff V as the Executor of the Will, arguing that Plaintiff V was not a direct heir. They also doubted the validity of the Deed of Testament No. 04 because Mrs. Hanna Soehono was ill and the Defendants were not present. In addition, objections arose due to the wet stamp from the Ministry of Law and Human Rights dated April 25, 2020, which showed that Mrs. Hanna Soehono passed away at the same time. The Co-Defendants as the Notary who accepted the making of the Deed of Testament No. 04 emphasized that the process of making the deed was in accordance with the applicable regulations. They emphasized that at the time of the reading and signing of the deed. The testator was conscious and had understood the contents of the Deed of Testament. Therefore, they maintained the validity of the Deed of Testament No. 04 as the basis for the distribution of inheritance. Thus, the researcher is interested in researching about the will with the title “Inheritance Dispute Against the Position of the Will (Study of Decision Number 307/PDT.G / 20

Problem

1. How can legal decisions in inheritance dispute cases, such as in Decision Number 307/PDT.G/2021/PN JKT.SEL, provide precedents for the settlement of inheritance disputes in the future?
2. How is the dispute resolution of inheritance distribution based on a will that contains the granting of inheritance property to parties other than the heirs?

Research Methods

This research on inheritance disputes due to wills uses a normative juridical method, with a conceptual approach, namely an approach that departs from the views and doctrines that develop in law and a legislative approach - invitation is an approach using legalization and regulation. The source of this research is based on literature data which is a secondary source. The primary legal sources in this research include the Civil Code, Court Decision Number 307/PDT.G/2021/PN JKT.SEL. In addition, secondary materials, namely reference books, journals, articles, and websites related to inheritance disputes. Thus, these materials will be analyzed using a qualitative method.

Discussion

1. How can legal decisions in inheritance dispute cases, such as in Decision Number 307/PDT.G/2021/PN JKT.SEL, provide precedents for the settlement of inheritance disputes in the future?

Legal decisions in inheritance dispute cases, such as in Decision Number 307/PDT.G/2021/PN JKT.SEL, can provide precedents for the settlement of inheritance disputes in the future through this decision emphasizing that a will made in accordance with applicable legal provisions remains valid and can be used as a basis for the distribution of inheritance property, even though there are parties who are not present in the trial process. This provides legal certainty for the testator and heirs regarding the legal force of the will, which is expected to reduce future disputes. By affirming that the will of the testator as expressed in the will must be respected, this decision provides protection to the rights of the testator to determine the beneficiaries of his estate. It also encourages testators to make wills that are clear and in accordance with legal provisions, thereby reducing potential disputes in the future.

This decision can be used as a reference for the courts in handling similar cases in the future. With this precedent, judges in other courts may refer to this decision to consider their decisions in inheritance dispute cases involving wills, thus creating consistency in law enforcement. This decision may also encourage the public to better understand the importance of drafting a valid will that complies with the provisions of the law. As such, it is hoped that there will be more properly drafted wills, which in turn can reduce inheritance disputes. Through the publication and discussion of this decision, the public will be more aware of the importance of inheritance law and their rights as heirs. This awareness may encourage individuals to be more careful in planning their inheritance and understand the legal consequences of the wills they make. Thus, Decision Number 307/PDT.G/2021/PN JKT.SEL not only resolves the existing dispute, but also has the potential to shape better legal practices and reduce future inheritance disputes.

2. How is the dispute resolution of inheritance distribution based on a will that contains a gift of inheritance property to a party other than the heirs?

A will is a very important document in civil law, specialized in Inheritance Law. The legality of a will is regulated in Article 875 of the Civil Code, which in that article defines inheritance as a deed that reflects or contains a person's will regarding the distribution of property after he dies, which in principle can also be revoked. In the context of inheritance law practice, a will becomes the main basis because it reflects the last will of the testator towards his inheritance.

The procedure for making a will is regulated in Articles 879-916 of the Civil Code in which a testamentary deed must fulfill the applicable formal and material requirements. Some formal requirements regarding the will are that the will can be in written form either under hand or by authentic deed, if a testator chooses to make a will under hand, it is regulated in Article 932 of the Civil Code which states that the will must be written by the testator himself and signed by him, either in the form of an olographic or secret will (Wowor, 2020). Then the will that is made in this way must be submitted to a notary, so that the will in question has the same legal force as a will made through the authentic deed process, as this is indeed included in the authority of notaries in accordance with Law No. 2 of 2014 concerning Notary Offices. In addition, other formal requirements that have been regulated in Article 895 of the Civil Code emphasize that the maker of the will must be in a state of sound mind, whose memory is not disturbed. Article 897 of the Civil Code stipulates that those who have not reached the age of majority (18 years old) are not permitted to make a will. In addition, Article 893 of the Civil Code confirms that a will will be declared void if it is made under the influence of coercion, deceit or trickery.

Furthermore, regarding the material requirements of a will, several provisions can be found in the Civil Code, namely as follows: Article 888 of the Civil Code, if there is a condition in the will that is impossible to implement, or contrary to the norms of decency, then as regulated in Article 888 of the Civil Code, the condition is considered unwritten; The provisions of Article 879 of the Civil Code explain the prohibition of fidei-commis or jumping hands. Fidei-commis is a will that appoints someone in its contents to be a temporary heir, only to receive the inheritance and later the inheritance will be given to another party. According to Article 879 of the Civil Code, such a model of will is not allowed, so that a will containing elements of fidei-commis is considered void and worthless; Article 901 of the Civil Code explains the prohibition of wills for married couples who do not have a valid marriage license, or even whether the validity of the legal event of marriage is still being debated by the judge in court.

Article 902 jo. 852a of the Civil Code regulates the prohibition of giving a will in its entirety to a husband or wife if the testator still has children from a previous marriage as regulated in Article 852a of the Civil Code.

Civil Code. In fact, the inheritance may be divided to the current wife or husband because the husband or wife has the right as an heir, but the share given to the husband or wife cannot be greater than the smallest share of a legitimate child or cannot be more than 1/4 share. Husband and wife can only inherit marital property in accordance with their respective shares according to Article 903 of the Civil Code. If part of the joint property is granted through a will and the

testator does not leave it as inheritance, the grantee cannot claim the joint property directly. In this case, the grantee must receive compensation from the share of the joint property received by the testator's heirs; if this compensation is insufficient, it will be taken from the testator's personal property.

Articles 904-907 of the Civil Code prohibit the granting of bequests by will to guardians, teachers, priests, doctors, healers, druggists, and other professionals who treated the testator during the illness that caused his death, as well as notaries and witnesses involved in the will-making process. Article 908 of the Civil Code prohibits the granting of a will to an unmarried child in excess of the share that the recognized unmarried child is entitled to receive, as provided for in Article 863 of the Civil Code. If an adulterous relationship has been proven by a judicial decision with permanent legal force, the granting of a will to an adulterous spouse is prohibited by Article 909 of the Civil Code.

Article 912 of the Civil Code prohibits the granting of a will to a person who has been convicted of murdering the testator; a person who embezzles, destroys or falsifies the testator's will; or a person who by force or violence prevents the testator from revoking or changing the will. This prohibition also applies to wives, husbands, and their children, as well as persons deemed ineligible to inherit under Article 838 of the Civil Code. In addition, it is worth noting when making a will that heirs have absolute shares-also known as "absolute shares"-in a straight line up and down. As long as such absolute heirs claim their absolute share, the provisions set out in Articles 914-916 of the Civil Code may not be reduced by a will.

A will has a very important position in civil law because it can override the rights of heirs stipulated in the law. The legal basis for this is regulated in Article 874 of the Civil Code which states that if the testator makes a provision that determines how his estate will be divided or administered after his death, then the will of the testator must take precedence and be overridden over the rights of the heirs according to the law. This article emphasizes that a will has greater power in determining the fate of the estate than the rules stipulated in the law. Thus, the execution of the testator's will as stated in the will must take precedence, even if it means overriding the rights that the heirs should have under the law. This shows that a will gives the testator great authority to determine the fate of his estate in accordance with his wishes, even if it contradicts the rules that have been established in general but does not exceed certain limits and does not take away the rights of other heirs. Therefore, in practice, a will is often the main basis for the division of inheritance, because it provides certainty over the last will of the testator. In Decision Number 307/PDT.G/2021/PN JKT.SEL, it is explained that plaintiff V has a legitimate position as the executor of the will even though he is not the son of the deceased Mrs. Hanna Soehono. This is because plaintiff V has been officially appointed in the deed of testament No. 04 dated August 08, 2019. Although the plaintiff V was not listed as a predetermined heir, the decision to appoint him as the executor of the will had been taken by the deceased Mrs. Hanna Soehono through the will deed. This decision was taken in her mentally perfect capacity and based on her freedom of choice. It is important to note that the presence of the respondent is not required in the making of a will deed. Even if the defendant is not present, this does not diminish the validity of the will deed, especially if the will-maker was in a state of consciousness when making the decision and if the will deed was made in accordance with the applicable legal provisions (Court Decision Number 307/PDT.G/2021/PN JKT.SEL). Thus, this decision confirms that the will deed remains valid and applicable even

in the absence of the defendant. This confirms the importance of the testator's will revealed in the deed of testament and provides legal certainty for the implementation of the will, as long as the process of making the deed of testament is carried out legally in accordance with applicable legal provisions.

Conclusion

The conclusion of this paper is that in Indonesian civil inheritance law, a will has an important role as an instrument that reflects the last will of the testator. However, when a will grants inheritance rights to parties other than legal heirs, disputes often arise, as discussed in the case of Decision Number 307/PDT.G/2021/PN JKT.SEL. The validity of a will is determined by its compliance with applicable legal provisions, including not violating the absolute rights of the heirs (*legitime portie*). The verdict in this case confirms that a legally valid will can still be executed despite objections from parties who were not present in the process of making it, as long as the testator is in good health and the decision is made freely. This decision provides an important precedent for the courts in handling similar disputes in the future and encourages the public to better understand the importance of drafting a valid will in order to reduce potential inheritance conflicts.

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