

LAND DISPUTE ANALYSIS: CASE STUDY BETWEEN THIRD PARTIES AND HEIR IN THE DECISION OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA NUMBER 629K/Pdt/2023

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ABSTRACT; *Inheritance problems often arise due to unfair distribution of assets, not in accordance with the provisions of applicable inheritance laws, both according to Civil Law, Customary Law, and Islamic Law. Inheritance involves the transfer of assets after a person's death to the rightful heirs. In some cases, such as in Supreme Court Decision Number 629K/Pdt/2023, disputes related to inherited land become complex problems, involving various legal aspects and disputed facts. This study analyzes the decision with a normative legal approach, using literature studies on primary, secondary, and tertiary legal materials. The Supreme Court in this decision rejected the cassation application on the grounds of ne bis in idem, emphasizing the importance of the principle of finality in inheritance law. Land disputes, such as those in this case, demonstrate the complexity of inheritance law in Indonesia, especially when involving third parties and decisions that have permanent legal force. The analysis of this decision also includes the obstacles faced in the legal process, including the principle of ne bis in idem, the legal force of previous decisions, and the complexity of proving heir status. This research is expected to contribute to the development of legal science, especially in resolving inheritance land disputes and a deeper understanding of judicial practices in Indonesia.*

Keywords: inheritance disputes; inheritance law; Supreme Court; ne bis in idem; land disputes; civil law.

INTRODUCTION

One of the problems that can be resolved through alternative dispute resolution efforts is inheritance disputes. Problems in inheritance generally occur because the distribution is unfair and not based on applicable inheritance provisions, such as inheritance according to the Civil Code, according to Customary Law, or according to Islamic Law (Aminatun et al 2020)

Inheritance is a right that arises when someone dies and their assets change hands to another person who has the right (Member 2020). Inheritance law regulates the rules regarding assets left behind, their distribution, transfer, and the legal consequences arising from inheritance.

In the Indonesian judicial system, the Supreme Court (MA) decision has a very important role as the final arbiter in civil, criminal, and state administrative cases. The Supreme Court is a court at the cassation level and as a supervisor in matters closely related to the judicial process (Siahaan 2009). The Supreme Court of the Republic of Indonesia Decision No. 629K/Pdt/2023 marks one of the important examples of dispute resolution in the civil field involving significant issues, both in the national scope and the personal interests of the parties involved. This case is important to study, considering the various legal precedents, jurisprudence, and principles of justice that must be considered in every Supreme Court decision.

The Supreme Court as the top of the judicial hierarchy has the authority to ensure that all decisions taken have considered the legality and justice aspects in accordance with applicable legal provisions. The Supreme Court's decisions are also a reference for lower courts, especially in applying the law and developing legal principles that are in accordance with the social and cultural context of Indonesian society. In this case, decision Number 629K/Pdt/2023 provides space for analysis in terms of the application of the law, consistency with existing regulations, and its impact on the legal interests of society in general.

A legal analysis of this decision is also needed to see how the Supreme Court considers legal facts, and whether the application of the law in this case is in accordance with the principles of justice and legal certainty. This study aims to further examine the legal basis used by the Supreme Court in its decision, the relevance to existing laws and regulations, and identify the implications of the decision on the development of civil law in Indonesia. This analysis is expected to contribute to the development of legal science and become a reference for legal practitioners, academics, and the public who need further understanding of judicial practices at the highest level in Indonesia.

RESEARCH METHODS

This research was conducted using the approach used in this research, namely normative juridical with descriptive-analytical specifications, namely legal research conducted by researching and reviewing library materials (secondary materials) which include primary, secondary and tertiary legal materials (Member 2020). The method used is related to the implementation of land dispute resolution in decision Number 629 K/Pdt/2023 through the Supreme Court and describes systematically, factually, and accurately all facts and problems studied in relation to legal theory and the practice of implementing positive law concerning problems in problem formulation..

DISCUSSION

Application of civil inheritance law in handling inheritance cases in decision number 629K/Pdt/2023

Land is a form of property that has high value. According to the Basic Agrarian Law, land is the outermost surface of the earth. Land owned by a person in a certain area is land with ownership rights which is marked by ownership of an official certificate from the government. Land is used according to its use based on the function that has been registered in the land registry. So that the land under ownership rights is the land that has the widest use by the owner of the ownership rights. Land with freehold means land with control that is based on rights and protected by law (Andayani et al 2024).

Land disputes are conflicts that commonly occur after or when there is a transfer of ownership rights (Sappe 2021). Land conflicts arise when there is a party who feels disadvantaged by the transfer of rights to a land. The party may be between heirs and other heirs or heirs and third parties. Land transfers involving third parties and heirs are disputes that arise due to the intervention of external parties.

In general, the heirs should be the absolute recipients of the inheritance. The heirs have the right to know what happens to the inheritance so that they can know whether the goods are still legally owned by the heir or not. The loss of the validity of ownership of an object can arise due to an agreement such as debt. However, the inheritance that absolutely belongs to the heirs must still be given to the heirs before finally being used to fulfill the obligations of an agreement that was made. The reason for the transfer of land as collateral must be proven by a deed made by the Land Deed Making Officer (Sinaga 2022)

Basically, these disputes often arise due to various aspects, for example:

1. Unclear legal status of land; It is important for a land owner to make a land certificate based on permanent law, if the land certificate is incomplete, or if there is a previous dispute, it can cause serious problems;
2. Disputed transfer of ownership rights; It often happens that heirs feel that the transfer of land ownership to a third party is invalid or violates their rights.
3. Inappropriate land registration; In the land registration process, there are errors in the process of making it or errors in documents that can become the basis of disputes.

Supreme Court (MA) Decision Number 629K/Pdt/2023 deals with a dispute related to inheritance filed by Hetty Gaghana against Bryan Montana. This dispute focuses on the ownership of land which is the inheritance of the late Johan Gaghana and Julien Langi, which according to the plaintiff belongs to them as the legal heirs. In this case, the Tahuna District Court initially decided to accept part of the plaintiff's claim, namely stating that the disputed land belongs to the heirs. The court also ordered the defendant to return the land certificate. However, on appeal, the Manado High Court overturned this decision, stating that the plaintiff's claim was inadmissible and confirming that Bryan Montana as the defendant was the legal owner based on previous decisions that had permanent legal force (Ruling et al. 2023)

When the case was brought to the cassation level, the Supreme Court rejected the cassation application from the Plaintiff, Hetty Gaghana, considering that the reason for the cassation could not be justified in connection with the *judex factie* that the Manado High Court's decision was not contrary to the law. The Supreme Court considered that this case was *ne bis in idem*, which means that it could not be re-litigated because there had been a final and binding decision related to the same object. However, the examination of the evidence of the case regarding the Manado High Court's decision must be re-examined as long as it concerns the main points of the decision.

The application of civil inheritance law in this decision emphasizes the importance of previous decisions that have been *inkracht* and the principle of finality in inheritance law, especially in inheritance cases that already have a final legal decision. The land has legally become Brian Montana's property based on the High Court Decision Number 199/PDT/2016/PT MND and the Supreme Court of the Republic of Indonesia dated December 22, 2017 Number 2868 K/Pdt/2017.

According to Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), land ownership rights are hereditary rights that can be transferred from the landowner to his heirs. Land ownership rights are the strongest and most complete rights that can be owned by a person or legal entity. In this case, Hetty Gaghana is the child of Johan Gaghana and Julien Langi.

Obstacles faced during the decision process Number 629 K/Pdt/2023 include:

In the process of decision Number 629K/Pdt/2023, there are several obstacles that may need to be faced both legally and practically. The following are the main obstacles, namely:

1. The principle of Ne Bis In Idem

One of the main obstacles is the filing of an exception by the Defendant stating that the Plaintiff's lawsuit contains the principle of ne bis in idem. The principle of ne bis in idem is one of the principles in the Indonesian legal system which can be interpreted as the principle that determines a case that may not be tried a second time. This is related to a court decision that has obtained permanent legal force and may not be changed or challenged.(Analysis, Number, and Butarbutar 2018). This creates a challenge for the Plaintiff to prove that the case being tried is different and does not violate the legal principle.

2. Legal Force of Previous Decisions

Previous decisions that have permanent legal force remain an obstacle, because they limit the scope for filing new claims. The plaintiff must face the fact that the object of the dispute has been deemed to belong to the defendant based on previous decisions, which makes it difficult to enforce his rights.

3. Proof Process

The burden of proof that must be borne by the Plaintiff to show that they are the legitimate heirs is also an obstacle. This includes the presentation of documents and evidence supporting the inheritance claim, which in some cases may be difficult to obtain.

4. Complexity of Inheritance Law

Inheritance law often involves multiple parties and complex legal aspects. In this case, the involvement of multiple heirs and conflicts between them adds another layer of complexity, which can slow down the settlement process.

5. Legal Costs

The costs associated with the legal process, including court costs to be paid by the losing party, can be an additional burden. This can affect the parties' decision to continue or discontinue the legal process.

6. Appeal Process

After the District Court decision is overturned by the High Court, the Plaintiff must face an appeal process which increases the time required to resolve the case. This can result in legal uncertainty for the parties involved.

7. Limited Legal Resources

Sometimes, limitations in access to legal resources, such as lawyers or adequate legal advice, can hinder a party's ability to present a strong argument in court.

These obstacles show how complex and challenging the legal process is in inheritance cases, especially when it involves long-standing disputes and previous decisions that may affect the rights of the parties involved.

Efforts that can be taken if a dispute occurs between the heirs and a third party

In this case, the researcher explains the efforts to resolve the complex legal aspects of a case using a structured approach, the solutions include:

1. Analyze the disputed case in depth
 - a. Identification of problems :

Determine the legal issues to be faced or identify the problems that occur. This will make it easier during the legal process, because we already know what problems will be solved
 - b. Gather facts:

Collecting facts is also important, we have to look at it from a different perspective. Often in such cases unexpected evidence or facts are found, in this case we have to be more careful
2. Study of Regulations and Laws
 - a. Reviewing related laws and regulations:

Conduct an in-depth study of the relevant legislation in the case, paying attention to articles that may contribute to the complexity of the case.
 - b. Jurisprudence Analysis:

Reviewing court decisions relevant to the case in question to understand how other judges decided similar cases.
3. Multidisciplinary Approach

In these cases it is important to discuss the matter with another legal expert, such as a lawyer or academic who specializes in the relevant matter.
4. Listening to the opinions of related parties

Inviting the parties involved in this case to resolve the matter, can use alternative resolutions through arbitration or mediation to find a solution to the problem.
5. Decision making by the Judge

In cases like this, judges are required to consider justice and public interest in making decisions. Decisions taken by judges must be in line with applicable legal principles and not conflict with existing laws.

Therefore, in this case it can provide benefits including, understanding of jurisprudence where we can understand how the supreme court applies the law in similar cases. This decision can be used as a reference in resolving similar land dispute cases. The analysis conducted can also add to the development of legal science, especially in the field of land law.

CONCLUSION

Inheritance problems often arise due to unfair distribution of assets and not in accordance with the provisions of applicable inheritance laws, both in Civil Law, Customary

Law, and Islamic Law. Inheritance disputes, especially those related to land, become complex when they involve third parties and are influenced by decisions that have permanent legal force. A study of Supreme Court Decision Number 629K/Pdt/2023 shows that the principles of *ne bis in idem* and legal finality play an important role in resolving inheritance disputes. In this case, the Supreme Court rejected the cassation application because of a decision that was already *inkracht*, emphasizing the importance of the principles of justice and legal certainty in resolving inheritance disputes.

This study highlights that the main obstacles in resolving inheritance disputes include the application of the *ne bis in idem* principle, difficulties in proving the status of heirs, and the influence of previous legal decisions. Understanding these decisions and the legal analysis carried out can provide valuable contributions to the development of civil law, especially related to the resolution of inheritance disputes and the implementation of inheritance law in Indonesia.

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