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Transfer of Land Rights Still Constituting Part of an Inherited Property

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Abstract

The transfer of rights to inherited land in Indonesia often causes disputes, especially when carried out unilaterally by one of the heirs without the consent of all entitled parties. Although inheritance law has been regulated through various systems such as civil, customary, and Islamic law, and supported by land provisions such as UUPA and Government Regulation (PP) No.24 of 1997, practices in the field often deviate from applicable regulations. The

existence of a certificate of ownership obtained through a unilateral registration process without a deed of division of rights from the PPAT raises legal issues, considering that such registration should guarantee legal certainty and protection. Therefore, a study is needed on the validity of certificates of transfer of rights to inherited land that are registered unilaterally without the consent of all heirs, reviewed from the perspective of applicable law.

Keywords: Transfer of Land Rights, Inheritance Property, Validity of Certificates

1. Introduction

Indonesia has various regulations governing the field of family law, one of which is inheritance law. Inheritance law can be interpreted as a law that regulates the distribution of inheritance left by someone who has died along with the legal consequences for the heirs left behind.¹ In another sense, inheritance law can be understood as a series of rules that arise as a result of a person's death, which regulates the transfer of property to the heirs left behind. Therefore, problems related to the transfer of inheritance are often the subject of legal disputes.²

There are three legal systems in force in Indonesia concerning Inheritance Law, namely customary inheritance law, western civil inheritance law, and Islamic inheritance law. In western civil law, inheritance or inheritance issues are regulated in the Civil Code (KUHPerdata). The provisions governing the distribution of inheritance are contained in Articles 830 to 1130 of the KUHPerdata.³ These provisions apply to the Chinese, Europeans, and those subject to European law, as well as to Indonesians who choose to adhere to European law. Meanwhile, the Indonesian people who generally adhere to Islamic teachings, it is certain that the legal system that influences the Indonesian legal system is the Islamic Law system,⁴ including the issue of marriage and distribution of inheritance, including land given through waqf, which in the Indonesian land law system is regulated in Law No. 41 of 2004 concerning Waqf (Waqf Law).

Based on Article 117 KHI, it states that inheritance itself arises due to the death of a family member, for example a father and mother or child if the deceased has assets. Based on the provisions discussed regarding inheritance rights, it is also explained who is entitled to receive and how much rights are given to each heir left behind.

¹ Olga A. Pagkereggo dan Butje Tampi, *Tanggung Jawab Ahli Waris Terhadap Harta Warisan Pewaris menurut Kitab Undang-Undang Hukum Perdata, Lex Privatum*. IX(4), 2021, hlm. 4.

² Ali Afandi, *Hukum Waris Hukum Keluarga Hukum Pembuktian*, Jakarta: Bina Aksara, 1996, hlm. 5.

³ Serge Kreutz, *Kitab Undang-Undang Hukum Perdata (Civil Code) Buku Kedua Benda*, Internasional Journal, 2011, hlm. 1.

⁴ Suhaimi, Chadijah Rizki Lestari, Mahfud, A New Paradigm of Land Waqf in the Indonesian Land Law System, *International Journal of Advanced Multidisciplinary Research and Studies*, Vol.3(5), 2023, pp. 504-508, Int. j. adv. multidisc. res. stud. 2023; 3(5):504-508.

According to R. Subekti, inheritance law regulates matters relating to a person's property and wealth if he dies. Inheritance law is otherwise seen as the rule of family-related legal consequences on a person's estate.⁵ According to Wirjono Prodjodikoro, inheritance is the question of what and how far the variations in rights and obligations exist relating to a person's estate at his passing that will subsequently be assigned to other living individuals.⁶ Inheritance law cannot be isolated from the family system since it forms part of family law. Every household should go through the process of inheritance, commonly known as 'succession,' which has been stated in the Basic Agrarian Law (UUPA) regulating land right successions. The succession here denotes the right-to-land successions. This is usually termed as land inheritance because what is actually inherited is the right to the land and not the land itself. The purpose of the inheritance of rights itself is that the heirs may be able to control, legally own, and use the land.⁷

When the land rights holder dies, then the rights are transferred to the heirs through a legal event, not a legal act.⁸ This is in line with the provisions of Article 20 (2) of the UUPA, "Ownership rights can be transferred and assigned to another party." The transfer of land ownership rights can occur through legal acts and legal events. The transfer of land ownership rights that occurs due to a legal act, meaning that the transfer is carried out by intentionally transferring the rights owned to another party. The legal act is carried out intentionally, with full awareness and not because of coercion from another party. Meanwhile, the transfer of land ownership rights due to a legal event, this occurs by itself because of the occurrence of a legal event, such as the transfer of land ownership rights to the heirs because the holder of the ownership rights has died. So by itself or without any intentional legal act from the holder of the ownership rights. The transfer of land ownership rights due to a legal act can be carried out through buying and selling, gifts, exchanges, and inheritance.⁹

As a major step in land provisions in Indonesia, the Government has enacted the UUPA which regulates various types of land rights, including ownership rights, which grant full and hereditary rights to the holder. The process of transferring land rights through inheritance can be carried out according to customary law, Islamic law or civil law, in accordance with the agreement of the heirs. In addition, each region also has different customary laws. Land rights obtained through inheritance must be registered at the land office to provide legal certainty. Registration of inherited land rights is mandatory in order to guarantee legal certainty and provide legal protection for heirs and for the sake of administrative order and state registration of land so that the data stored and submitted always shows the actual situation in accordance with the reality in society. This is in accordance with Article 19 (1) of the UUPA which states

that land registration carried out by the government throughout Indonesia is carried out based on Government Regulations (PP) No.24 of 1997 concerning Land Registration (PP Land Registration).¹⁰

According to the PP on Land Registration, one of the requirements for transferring land rights is that the transfer of land rights must be carried out before a Land Deed Official (PPAT) to prove whether or not the legal act of transferring rights is true. The PPAT deed is strong evidence that at the time stated in the Deed, there has been a transfer of rights to a plot of land from the seller to the buyer (for example) at the price stated in the Deed. Thus, in the land registration process, the PPAT has a very important role in making authentic deeds regarding a plot of land, which will later become valid evidence in the transaction of transferring rights. In the case of a transfer of rights being carried out on land that still has the status of joint property of all heirs (inheritance that has not been divided into rights for each heir), the PPAT also has the responsibility to ensure the validity of the data and the approval of all heirs in the process of transferring rights to the land, so that in the future there will be no legal problems among the heirs, and the recipient of the transfer of rights (the buyer, for example) gets legal certainty regarding the land obtained (purchased). This is important, because based on the PPAT Deed, to ensure the certainty of his rights, the recipient of the transfer of rights (the buyer, for example) is required to register with the Land Office to obtain a certificate of rights to the land he has acquired.

Land certificates have an important meaning and role for the relevant rights holders, and also function as proof of land rights with clear status, so that it will be easier to prove that the land belongs to him. Therefore, as proof of ownership, every land rights holder must have a certificate.¹¹ Likewise, third parties or other parties (including the government) can more easily obtain accurate and reliable information about the land, especially other parties who have an interest in the land concerned.

PPAT has the authority to make a deed of transfer of rights, because PPAT is a public official who is given the authority to make authentic deeds, as long as it is not specifically made by other public officials. PPAT has the authority to make a deed of agreement for the transfer of land rights and so on. Through an authentic deed, the rights and obligations of the parties can be clearly determined as well as legal certainty if a dispute or legal dispute occurs in the future. Although the dispute cannot be avoided, in the dispute resolution process, the deed made by the PPAT is a strong written evidence that can provide a real picture for resolving the case.¹² Therefore, how important the PPAT deed is in the

⁵ R. Subekti, *Pokok-Pokok Hukum Perdata*, cet XXVI, Jakarta: Intermasa, 1985, hlm. 17.

⁶ R. Wirjono Prodjodikoro, *Hukum Warisan Di Indonesia*, Bandung: Sumur Bandung, 1980, Cet ke-6, hlm. 88.

⁷ Urip Santosa, *Pendaftaran dan Peralihan Hak Atas Tanah*, Jakarta: Kencana, 2011.

⁸ Ibid.

⁹ Abdulkadir Muhammad, *Hukum Waris*, Bandung: PT. Citra Aditya Bakti, 2009, hlm. 51.

¹⁰ Arief Rahman, Zaeni Asyhadie, dkk, *Pendaftaran Tanah Warisan Yang Belum Dibagi Waris Undivided Inheritance Land Registration*, Jurnal Kompilasi Hukum, Universitas Mataram, Volume 5, No. 1, Juni 2020, hlm. 2-3.

¹¹ Rafiq Nuzula, Suhaimi, Mazwar, Implementation of the Issuance of Replacement Certificates Due to Administrative Defects (Case Study at the Land Office of Banda Aceh Municipality), *International Journal of Law*, Volume 11, Issue 5, 2025, p.p., 12-17.

¹² Dewi Rasda, Muhammad Sabir Rahman, Bakhtiar Tijjang, *Tanggung Jawab Pejabat Pembuat Akta Tanah (PPAT)*

transfer of land rights, both for the benefit of the transfer of rights and for the benefit of proof in the future if a dispute or dispute occurs.

The making of a deed by a PPAT must be done by considering the events, status, and accurate and definite data and in accordance with applicable regulations. In addition, the deed must be supported by the required documents, the validity of which has been verified by the relevant PPAT. The standard form of the deed issued by the PPAT has been determined by the National Land Agency (BPN) and is in the form of a deed form. This is different from the deed made by a Notary, which is adjusted to the needs of the legal act and the need of its clients.

Inheritance of land rights is often a problem that develops in society, considering the economic value of land which is increasing over time and the potential welfare that can be obtained by its recipients. This often triggers disputes that have the potential to cause disputes, even within the family environment, the potential for disputes cannot be avoided. There are many cases where family members or heirs are involved in disputes related to the transfer of rights to inherited land. One example is an attempt by an heir to unilaterally control inherited land. This unilateral transfer of rights to inherited land generally occurs when there is more than one heir, which requires a clear legal basis, namely a Deed of Distribution of Rights which must be made by a PPAT.

It should be noted that it is very important to note that the deed made by the PPAT contains correct and accurate information, not fabricated or fabricated. The deed must also be accompanied by valid supporting documents, which have been carefully checked, so that if a dispute occurs in the future, the PPAT can be held accountable for its validity and ensure that the deed made is in accordance with the data recorded at the local Land Office. As a party that plays a central role in the transfer of land rights, the PPAT is responsible for ensuring that the documents issued are valid and involve the approval of all entitled heirs.¹³

However, in practice, negligence by PPAT in verifying the validity of data and statements of the person appearing can often have a detrimental impact on other parties because it is considered too influential on the deed issued. This phenomenon shows how important PPAT is in guaranteeing the validity of documents such as the consent of heirs. Failure in this case can lead to disputes that lead to legal disputes. In addition, BPN also has a strategic role in verifying data regarding land registration (including inherited land), so that it can be ensured that the process of making deeds and their registration runs in accordance with applicable regulations.¹⁴

PPAT has an obligation to conduct an introduction to the person appearing in accordance with the identity shown to PPAT. In practice, although introduction is mandatory, there are legal problems with PPAT deeds and the cause is sometimes the client's dishonesty in completing or providing

administrative requirements for inheritance that has not been divided to the heirs. In addition, there are also those who falsify the required documents, even though the document is the basis for making the deed, so that the fake document has resulted in the transfer of rights to the land. So that the deed does not have a guarantee of legal certainty, which is ultimately declared void, has no legal force or is void by law based on a court decision that has permanent legal force. In cases like this, it also highlights the role of the BPN, hereinafter referred to as BPN, in processing the registration of inherited land. BPN as the institution responsible for land administration in Indonesia is required to first conduct data verification in depth and carefully for each application for land registration, especially inherited land.

A legally flawed certificate will certainly give rise to legal disputes and will reduce public trust in the land administration system. In addition, this problem is also exacerbated by the lack of public knowledge of the applicable legal procedure in the distribution of inherited property, resulting in abuse of rights by parties who take advantage of the situation by taking advantage of the ignorance of other heirs regarding inheritance arrangements. If one of the heirs transfers the rights to the inheritance land by registering it in his/her own name, even though the inheritance has not been divided. Then, the other heirs can inform the person concerned that the property is an inheritance and the other heirs also have rights according to their respective amounts. Then the other heirs can ask the heirs who have transferred the inheritance in their own name to divide the inheritance, because they all have the right to the inheritance according to their respective portions. This is in accordance with the statement contained in article 188 of the KHI, where each heir, either individually or together with the other heirs, can ask the other heirs to divide the inheritance to all of them. Thus, even though one of the heirs has taken over the inheritance and registered it in his/her own name, even though the other heirs also have rights to the inheritance, the other heirs can submit a request to divide the inheritance in question. If the heir who transfers and registers the inheritance in his own name does not care and does not agree to the request of the other heirs, then the other heirs can sue the person concerned in court. The lawsuit is filed with the Religious Court (in Aceh called the Syar'iyah Court), with a request that the inheritance be divided among all heirs.

In inheritance matters, the presence of all heirs in the division action is very important. Failure to sign or not being legally represented can make the deed invalid and null and void. The power of attorney to represent an heir who is not present must be supported by an authentic deed or a legalized private deed. If the heir cannot attend, a legalized private power of attorney is required by a notary. This condition underlines the importance of the approval of all heirs.

However, in reality, there are still many facts related to people who are still reluctant to realize Islamic heritage by slowing down by delaying the implementation of the distribution of inheritance and implementing a distribution that is not in accordance with applicable regulations such as dividing it in half, controlling it personally or together with other heirs, or even selling it without the consent of the other heirs for various reasons and they use the assets for their own interests or even others. In fact, the inheritance that is transferred is still a joint property and it is not yet

Dalam Pendaftaran Peralihan Hak Milik Atas Tanah, Litigasi, Fakultas Hukum Institut Ilmu Sosial dan Bisnis Andi Sapada, Volume 9, No. 1, November 2021, hlm. 34-35.

¹³ Pamungkas, Bagus Satria, *Reformulasi PPAT Dalam Pendaftaran Hak Tanggungan Yang Terintegrasi Secara Elektronik*, 2023, hlm. 1-14.

¹⁴ *Ibid.*, hlm. 9.

clearly known who and how much of each part will receive the rights to the land as their inheritance rights. Allah SWT has said in Surah An-Nisa verse 29 which means: "O you who believe! Do not consume each other's wealth in a false way, except in trade that is based on mutual consent between you. And do not kill yourselves. Indeed, Allah is Most Merciful to you. (QS. An-Nisa: 29)"

There are two examples of cases presented here, the first in the Banda Aceh Sharia Court decision No.432/Pdt. G/2020/MS-Bna. In fact, in the Sharia Court decision there is an unlawful act regarding the transfer of rights to a plot of inherited land controlled by several heirs even though the land or building has not been divided according to legal provisions. The land and buildings as assets inherited by Mrs. SF binti SD must be approved by the legal heirs.

In the Decision of the Banda Aceh Sharia Court No. 432 / Pdt. G / 2020 / MS-Bna it is stated that Syarifah Fatimah (SF) (Deceased) binti Sayed Djakfar (SD), died of illness at the age of approximately 80 years. During her lifetime, SF binti SD was married to SY and had been blessed with 10 (ten) children, and that after SF died, the heirs left behind were 7 (seven) children with the initials SA, SN, SN, SA, SB, SS, and SM. That during her lifetime, SF binti SD owned a plot of land and a house building on it with a land area of 826M2 located in Banda Aceh City. That after SF binti SD died, the assets were immediately controlled by Defendants I, II, III and IV by making a certificate of ownership in advance secretly even though the land and building had not been divided (still divided). In this case, the actions of several heirs who did this without involving or obtaining the consent of the other heirs were considered invalid and could be categorized as a form of taking over rights without following the correct mechanisms or procedures. Therefore, other heirs who feel disadvantaged can file a lawsuit against this matter by going to court (Sharia Court).

Another concrete example can be seen in the Sharia Court decision No. 77/Pdt.G/2021/MS.Bpd. In this case, the plaintiffs consisting of children from a previous marriage and grandchildren of the testator, sued the defendant who was the testator's biological child from a second marriage, for controlling all the inheritance without a joint agreement. The problem began with the inheritance of the deceased X bin Y, which consisted of land and shophouse buildings (ruko) as stated in the Certificate of Ownership No. 439, as well as other land and buildings which were assets brought and inherited from the testator's wife. Although the assets were joint assets or inheritances that should have been distributed to all heirs, the defendant had unilaterally transferred the certificate to his own name and rented the assets without the consent of the other heirs since 2012. Some of the assets were even mortgaged to third parties and generated personal income for the defendant.

Furthermore, the inheritance does not only come from one source, but comes from joint assets resulting from the husband and wife's business during their lifetime and the original assets of each partner, both from joint sales and purchases and from parental inheritance. The complexity of family relationships due to previous marriages of each parent makes the composition of heirs even more complicated, because it involves biological children from the first and second marriages, to grandchildren as substitute heirs. Basically, in the Indonesian inheritance law system, whether originating from customary law, BW law, or

Islamic law, inherited land that has not been divided will become joint property of all heirs. This means that in every legal action related to land or buildings on it, including registration of land ownership certificates, the approval of all heirs must be involved. This phenomenon raises various questions regarding the legality and fairness of the process of registering inheritance land certificates. On the one hand, land registration is carried out to provide legal certainty, but on the other hand, the land registration process carried out unilaterally without the approval of all heirs can result in injustice for the entitled parties and give rise to legal disputes.

Based on the background description, this study is important and aims to explore and analyze the legal problems arising from the unilateral action, as well as how land law in Indonesia provides protection for the rights of all heirs. Therefore, the author is interested in taking this legal issue as a form of final assignment research entitled "Legal Analysis of the Transfer of Land Rights That Are Still in Inheritance Status".

2. Research Method

In the study of the legal analysis of the takeover of land rights that are still in the status of inheritance, the normative legal method is used. The normative legal method or literature is carried out by examining library materials.¹⁵

This type of approach aims to collect data, theories, civil law regulations, especially on the transfer of rights to inherited land. This type of research is normative juridical, namely a legal research that prioritizes its research on library research or secondary data as the main material in the research by tracing the applicable regulations related to this research and other literature such as textbooks, scientific writings such as journals that are related to the problem being studied.¹⁶ The literature and study materials used in this study are related to the transfer of land rights that are still in the status of inheritance. The sources of legal materials in this study consist of secondary, primary, and tertiary legal materials.

Data collection through library studies is by examining legal sources, both codified ones such as the KUHP, and also uncoded ones such as the KHI. Literature study is conducted to find information from data sources in the form of laws, books, journals, related to the takeover of rights to which are still in the status of inheritance. After the data related to the research is collected, data processing is carried out in several ways, including: Data examination, Data reconstruction, and data systematics, correctly arranging data in accordance with the systematic framework of the problem.

3. Result and Discussion

Analysis of the Validity of Certificates of Transfer of Rights to Inherited Land Registered Unilaterally According to Law

In Indonesia, land registration is one of the important steps in the land administration system carried out by the owner of land rights, both in the recognition of new rights or the granting of new rights or in the transfer of rights, which

¹⁵ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Cet. 11, Jakarta: PT. Raja Grafindo Persada, 2009, hlm. 13.

¹⁶ *Ibid*, hlm. 13-14.

aims to record every change that occurs (both changes in physical data of the land, and changes in legal data) in a legally valid form. Boedi Harsono, explains that "land registration is a series of all or state activities in collecting data or information related to certain lands that are also located in certain areas, in order to obtain guarantees of legal certainty in the agrarian/land sector."¹⁷

Land Registration is a series of activities carried out in the form of data collection to the presentation process, as well as data maintenance. The government which is the implementer or organizer of land registration in Indonesia is organized by the Ministry of ATR/BPN, as an institution officially appointed by the government for duties and responsibilities related to the land sector. The Ministry of ATR is regulated by referring to Presidential Regulation No. 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning (Ministry of ATR), while the National Land Agency is regulated in Presidential Regulation No. 48 of 2020 concerning the National Land Agency (BPN). This registration activity plays a central role in creating legal certainty and clarity of status regarding land ownership. This is in line with Article 3 of PP No.24 of 1997, which aims to realize orderly land administration. Every land registration activity carried out must start from the stage of measuring, mapping and bookkeeping land books, this is in accordance with Article 19 (2) of the UUPA.

Land registration activities are a series of activities in the context of data collection (both physical data and legal data) to data presentation, as well as data maintenance, especially if there are changes that cause changes in physical data and legal data on a plot of land. The government which is the organizer or organizer of land registration which in this case is carried out by the Ministry of ATR / BPN, as an institution officially appointed by the government for duties and responsibilities related to the land sector. The Ministry of ATR is regulated by referring to Presidential Regulation No. 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning (Ministry of ATR), while the National Land Agency is regulated in Presidential Regulation No. 48 of 2020 concerning the National Land Agency (BPN).

The entire series of land registration activities, from initial registration to changes in land data, leads to the issuance of a land title certificate as a form of valid proof of rights owned by a particular individual or legal entity. A certificate is proof of land rights, issued by the government in order to organize land registration according to the provisions of regulations and laws¹⁸

In the case of a plot of land that has never been registered at the Land Office (never had a certificate), either registration according to PP No. 10 of 1961 or registration with PP No. 14 of 1997, then the land is registered for the first time. So in this case the object of land registration is land that has never been registered (not yet certified), so it is called registration for the first time. Furthermore, the activity of maintaining land registration data is an act of adjusting physical data and legal data on a plot of land. The

adjustment is made in the event of a transfer of land rights or encumbrance with other rights. In addition, it can also occur due to changes in the layout of the land, boundaries or area of land or the widening of roads, water channels or other small things that are not carried out through a real legal act and the making of a deed regarding the change.

The complete sequence of activities related to land registration, encompassing the initial registration and subsequent modifications to land data, culminates in the issuance of a land title certificate. This certificate serves as official validation of the rights held by a specific individual or legal entity. Issued by the government, the certificate acts as evidence of land rights and is intended to facilitate the organization of land registration in accordance with established regulations and laws.

As stated by Wantjik Saleh, a certificate constitutes a replication of a land book alongside a measurement letter, which is subsequently assembled with a cover paper in a format specified by PP.¹⁹ A land certificate refers to a document issued by a recognized authority that serves to validate an individual's rights to a specific parcel of land.²⁰

The certificate's legal authority is governed by Article 32 (1) of the PP No.24 of 1997, which asserts that the certificate serves as compelling evidence concerning the physical and legal data contained within it. The land title certificate represents the ultimate legal outcome of the land registration procedure.

These provisions are binding, thus requiring officials of the National Land Agency, hereinafter referred to as BPN, to issue certificates as valid and strong evidence regarding land rights, both in physical and legal aspects. The meaning of the "binding" nature in this case indicates that BPN officials do not have the freedom to reject or ignore the obligation to issue a certificate if all substantive and administrative requirements have been met by the relevant party.

However, the administrative validity of the certificate does not rule out the possibility of legal loopholes in the issuance process. In practice, certificates can be issued even if there are errors or lack of substantial documents, such as evidence of the transfer of legal rights from all heirs. Therefore, the prudential principle is important in land administration, where every official is obliged to ensure that the issuance of certificates is not only procedurally valid, but also materially fair and does not disregard the civil rights of other parties.

Furthermore, if in the implementation of their duties there are errors, administrative errors, or legal defects in the issuance of certificates, then PP No.24 of 1997 provides a mandate and obligation for the relevant officials to make improvements, corrections, or cancellation of the certificate in accordance with applicable provisions. This aims to maintain the validity of the certificate as a means of proof that is not only formally valid, but also materially fair.²¹

¹⁹ Wantjik Saleh, *Hak Anda Atas Tanah*, Jakarta, Ghalia Indonesia, 1997, hlm. 64.

²⁰ Mhd. Yamin Lubis dan Abd. Rahim Lubis, *Hukum Pendaftaran Tanah I*, Bandung: Mandar Maju, 2012, hlm. 204.

²¹ Ratih Mutiara Louk Fanggi,, Lalu Husni, Sahnan, *Kekuatan Pembuktian Sertifikat Hak Milik Atas Tanah Dalam Perkara Warisan (Studi Putusan Pengadilan Agama Nomor 50/Pdt/G/2002/Pa.Sel.)*, *Jurnal Education and*

¹⁷ Boedi Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, Edisi Revisi, Cetakan ke-8, Djambatan, Jakarta, 1999, hal. 11.

¹⁸ Adrian Sutedi, 2012, *Sertifikat Hak Atas Tanah*, Sinar Grafika, Jakarta Timur, hlm. 86.

Certificates that are issued legally, owned in good faith, and actually controlled for more than five years will receive stronger legal protection. The evidentiary force inherent in land title certificates is not only administrative in nature, but also has substantial legal implications. Certificates contain the principle of *presumptio iustae causa*, namely a legal assumption that the data contained therein is true and valid, as long as it is not proven otherwise through legitimate legal channels. However, this assumption is relative. If it is proven that the issuance process was carried out with legal defects, then the validity of the certificate can be revoked through the courts.

If in the process of issuing a certificate it is found that a party has violated its rights, the certificate can be canceled. This cancellation mechanism can be carried out through administrative channels if the error is technical or procedural, and through the courts if it concerns the substance of ownership or bad intentions in the acquisition process. Administrative cancellation is regulated in Article 126 of the Regulation of the Minister of ATR/BPN No. 16 of 2021, while cancellation through the courts is carried out by filing a lawsuit with the general or state administrative court, depending on the type of dispute. This shows that legal protection for the injured party remains open, and the legal force of the certificate is not absolute. Although the certificate of ownership has high evidentiary value in the land law system, the certificate is still bound by the principles of legality and justice. If there are procedural violations in the transfer and registration process, especially in cases of transfer of rights to inherited land that are not carried out legally by all heirs, the evidentiary force of the certificate can be revoked, and the civil rights of other heirs must still be respected and protected.

One relevant example is the Decision of the Banda Aceh Municipality Sharia Court No.432/Pdt.G/2020/MS-Bna. This case involved seven heirs, but the certificate was issued only in the name of four people without involving the other three heirs. The 826 m² inherited land was unilaterally certified without the consent of all heirs. This raises legal issues regarding the validity of the registration procedure and violations of the civil rights of other parties.

In fact, the land has never been legally divided according to applicable legal provisions. Therefore, the Defendant's actions in unilaterally controlling and registering the inherited land without involving or obtaining the consent of all heirs, especially the Plaintiff, constitute a form of unlawful act (*onrechtmatige daad*) as referred to in Article 1365 of the KUHPerdata.

These actions have caused losses to the Plaintiff, both in the form of material losses due to the loss of rights to a portion of the inheritance, as well as immaterial losses related to violations of rights and a sense of justice. From the perspective of inheritance law, each heir has the same legal standing and is entitled to a proportional share of the inheritance. Thus, based on the principle of justice and the principle of proportionality in civil inheritance law applicable in Indonesia, the inheritance in the form of land that is the object of the dispute should be divided fairly and evenly to all heirs. The unilateral control by the Defendant not only violates the principle of justice, but also contradicts

the norms of inheritance law which require deliberation and mutual agreement in the distribution of inheritance.

From a legal perspective, the act of unilaterally registering rights to inherited land without the involvement of all heirs contradicts the principle of legality and the principle of agreement in land law and inheritance law. This is as regulated in Article 40 (2) letter g of the PP on Land Registration, which requires proof of transfer of rights from all entitled parties in the event of inheritance. The Court considers that the certification process which is not accompanied by the approval of all heirs has ignored the civil rights of other parties, so that the certificate issued does not reflect the actual legal situation (*rechtstoestand*).

In cases like this, the role of the PPAT becomes very crucial, because they have the responsibility to check the legality of the transfer of land rights that will be stated in the deed. PPAT is required to ensure that the inheritance process has been carried out according to law and all heirs have given their written consent. The negligence of PPAT in carrying out this function not only impacts the validity of the deed made, but also opens up the potential for legal liability for the official concerned, both administratively and civilly.

This is important because in the context of national agrarian law, as regulated in Article 32 (1) and (2) of PP No.24 of 1997, although land certificates have the power as strong evidence, their validity can still be revoked if obtained through unlawful means or without good faith. The aspect of good faith is one of the important benchmarks in assessing the validity of the transfers of rights to inherited land.

In this case, the Court found that the certification actions carried out by some heirs were not based on the intention to respect the rights of other parties, but rather tended to hide important information and ignore the existence of other heirs. In fact, the principle of good faith in civil law and land administration law implies that every legal action must be carried out without any deception, bad intentions, or desire to harm other parties. Therefore, even though the certificate of ownership has been issued, the existence of the certificate cannot be used as a basis for legal protection if it is proven to have been issued without fulfilling the elements of good faith.

From an administrative perspective, this case shows the importance of the active role of the PPAT and officers at the National Land Agency (BPN) in conducting thorough verification and clarification of the documents and substantial truth of the parties. Failure to ensure that the transfer of rights process meets administrative requirements, such as a valid inheritance deed and the consent of all heirs, can result in the issuance of a legally flawed certificate. This has an impact on the legitimacy of the actions of land officials, who can be held accountable administratively and legally if they are proven to be negligent or careless in exercising their authority as stipulated in the provisions of Article 126 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No.16 of 2021 concerning Land Registration Procedures. If a certificate is issued by ignoring these principles, the validity status of the certificate can be questioned, and the certificate has the potential to be canceled through legal mechanisms. This is in line with the provisions of Article 32 (2) of PP No. 24 of 1997, which states that even though it has been issued for more than five years, a certificate can still be canceled if it can be proven that the registration was carried out in bad

faith or violated the rights of another party. Therefore, the existence of a certificate of ownership obtained from a process that is not in accordance with legal provisions does not necessarily provide absolute evidentiary force, and can become the object of a lawsuit, either through civil or state administrative courts, depending on the form of error that occurs.

Considering the aspect of justice, the unilateral issuance of certificates for inherited land is contrary to the principle of civil law and state administration. The law not only guarantees certainty, but also justice in its implementation. Therefore, in every process of registering inherited land, the involvement of all heirs is an absolute requirement so that the certificates issued truly reflect the will of the law and do not violate the rights inherent in each heir.

In addition, the aspect of legal protection for parties not involved in the process of transferring rights must be a primary concern. Complaint mechanisms, mediation, and litigation must be facilitated openly by the BPN and the judiciary in order to create a fair resolution space for all parties. Thus, the land system does not only rely on the principle of formality, but also emphasizes the importance of the substance of justice in its practice.

Within the framework of agrarian reform, increasing transparency and accountability in land registration, especially for inherited objects, is one of the strategic steps in minimizing conflict. Community involvement, digitization of land documents, and the formation of an inheritance database that is integrated with civil records can minimize the possibility of unilateral certification. This policy is also in line with the objectives of national legal development to realize legal certainty that is just and participatory.

4. Conclusion

A certificate of ownership of inherited land that has been registered by one heir unilaterally without having the consent of all heirs cannot be legally valid. Because the registration process does not fulfill legality, it means it does not fulfill the principles stipulated in Article 37 (1) of PP No. 24 of 1997 in which it requires a PPAT deed as proof of rights transfer. Besides that, there has been an illegality toward inheritance distribution; the distribution does not reflect justice. Without a deed to distribute rights signed by all heirs, any certificate issued becomes legally invalid and can be canceled because it will violate other heirs' civil rights. Therefore, such an act shall be deemed unlawful and an infringement because it involves loss; other parties have some ownership regarding such inheritance.

5. Suggestion

The government through land agencies (in this case BPN) and PPAT need to tighten verification in the land registration process, especially inherited land, namely by ensuring evidence of agreement from all heirs to prevent unilateral transfer of rights. In addition, it is necessary to increase legal awareness for the community, especially the heirs, so that they understand the importance of mutual agreement in the distribution of inheritance and the legal procedures that must be taken in accordance with applicable provisions, so as to minimize disputes in the future. Heirs should not ignore the rights of other heirs, because all of these are joint rights and have the same rights according to their respective portions according to applicable regulations.

If there is an heir who takes the rights of another heir, then immediately return it to the rightful party, because his actions, in addition to violating the law, also violate the rights of others and will later receive punishment from Allah SWT in the afterlife.

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