

JURIDICAL ANALYSIS OF THE DIVISION OF INHERITANCE TO THE HEIRS OF DIFFERENT MARRIAGES (DECISION NUMBER 435/PDT/2018/PT MDN)

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ABSTRACT

Abstract: In civil inheritance law, a principle applies, namely if someone dies (heir), then by law and immediately his rights and obligations are transferred to his heirs, as long as these rights and obligations are included in the field of property law or in other words rights and liabilities that can be valued in money. The civil inheritance law system has a characteristic that is different from other inheritance law systems, which requires that the heir's inheritance be divided as soon as possible among those who are entitled to the property. In the distribution of inheritance, the heir as the owner of the property has the absolute right to arrange what he wants for his property. This is a consequence of inheritance law as a regulatory law.

Keywords: Juridical Analysis; Inheritance; Wedding

Introduction

The process of the journey of human life is birth, life, and death, all of these stages influence his life. During his life, he processed infants, children, adolescents, and adults. Humans act as bearers of rights and obligations, both as individuals, family members, citizens, and adherents of religions who must submit and comply with legal provisions and norms throughout their lives.

Man in his journey in the world experiences 3 important events: when he is born, when he marries, and when he dies (Afandi & Waris, 1997). During the journey, humans are limited by Law as a rule so that humans remain within their limits so they don't exceed the limit. The law contains rules and guidelines in the journey of human life while in the world, and also contains sanctions if humans do not obey them. In this journey, humans will experience a phase of marriage, this marriage is to continue the generations of humans who previously existed. The meeting of two people, each of whom is the bearer of rights and obligations in a marriage relationship, has consequences in the field of law.

When the marriage phase has taken place and a human being in phase has offspring and is currently in the human mating phase he dies then inheritance also occurs. Inheritance

events were at the death of a person who has all the legal rights and obligations that he leaves behind both material and agreements that he made while he was still alive with other people. After the death of the human being and leaving all of his rights and obligations in the world, absolutely all of his rights and obligations fall on people who have blood relations with that person both in line down or line up. A person who has absolute rights is called an heir and someone who leaves his rights and obligations after he dies is called an heir.

The Indonesian state has a lot of arrangements regarding the inheritance system. Indonesia is a country rich in culture and customs, including inheritance. Indonesia has various forms of inheritance including, inheritance based on law western civil law, Islamic law, and customary law. Each of these laws has a character that is different from the others. Therefore the Indonesian Nation is said to be "Bhinneka" (different regions and ethnic groups), *Tunggal Ika* (but still one thing, namely the basis and nature of its Indonesianness). The tradition of the Indonesian Nation, which is *Bhineka Tunggal Ika*, does not die but always develops (Khaerani et al., 2019).

Inheritance law is a part of civil law. Because of the Indonesian state's diversity, several inheritance laws in Indonesia are still valid today. The law of inheritance is:

1. Customary inheritance law, sections of customary law have a major influence on customary inheritance law and vice versa heirs too stand central about other customary laws because inheritance law includes different legal rules with a continuous process from century to century, is a continuation and transfer of wealth both material and immaterial from one batch to the next (Muzainah & Syaikhu, 2020). Soepomo said "Customary law of inheritance contains regulations governing the process of passing on and passing off goods intangible property and goods (*Intangible Goods*) of a human race (*Generation*) to its derivatives. The process had started while the parents were still alive.
2. Islamic inheritance law, the law that governs the transfer of property left by a deceased person and the consequences for his heirs (Wahyuni, 2018). and also various rules about displacement property rights, the property rights in question are in the form of property, a person who has passed away to his heirs. In other terms, inheritance is also called with afraid. This means a certain portion is divided according to Islam to all who are entitled to receive it and those who have set the parts (Safitri, 2023). For those who are religious Islam (a portion of Indonesia's population is Muslim). Lawyer Islam is regulated in Presidential Instruction No.; 1 of 1991 concerning the Compilation of Islamic Law (Articles 171-214 KHI)
3. Western inheritance law, the understanding of inheritance law until now, both Indonesian legal experts and the Indonesian legal science literature, there is no uniform understanding, so the terms for inheritance law are still diverse. Wirjono Prodjodikoro uses the term "inheritance law." Hazairin used the term "inheritance law" and Soepomo called it "inheritance law." (Lubis et al., 2021) Soepomo explained

that the law of inheritance contains regulations governing the process of passing on and passing intangible goods and goods from a generation of humans to their descendants (Poespasari & SH, 2018). For those subject to the Western Civil Code, it applies provisions in the Civil Code (BW). Inheritance law is regulated together with property law, for the reasons are:

- a. Inheritance law is considered as a material right (Article 528 of the Civil Code)
- b. Inheritance law is one way that is determined by law limiting UU to acquire property rights (Article 584 Civil Code)

In terminology, the law of inheritance is the law governing the division of inheritance, knowing the parts received from the inheritance for each rightful heir. In another editorial, Hasbi Ash-Shiddieqy argues, that the law of inheritance is the law that regulates who inherits and does not inherit, the acceptance of each heir, and the methods of distribution. In contrast to the definition above, Wirjono Prodjodikoro explained, that inheritance is a matter of what and how various rights and obligations regarding a person's wealth when he dies will be transferred to other people who are still alive (Muhibbin & Wahid, 2022). Inheritance law in the Civil Code is the law governing the transfer of assets left by someone who dies and the consequences for the heirs (Sagala, 2018).

The Civil Code in Book II not only regulates objects and material rights but also regulates inheritance law (Meliala, 2018). The number of articles governing inheritance law is 300 articles, starting from Article 830 to Article 1130 of the Civil Code.

Civil inheritance law is very closely related to family law, so in studying inheritance law it is also necessary to study the legal system concerned with the inheritance law system such as the family system, the inheritance system, the form of inheritance, how to get an inheritance, the principles of inheritance law, the nature of inheritance law, and things that hinder inheritance or prevent it from becoming member inheritance. The kinship system in civil inheritance law is a kinship system that is bilateral or parental, in this system, the descendants are traced from both the husband's and the wife's side. The inheritance system regulated in civil inheritance law is individual, heirs inherit individually or individually, and heirs are not differentiated, both men and women have the same inheritance rights.

In civil inheritance law, a principle applies, namely if someone dies (heir), then by law and immediately his rights and obligations are transferred to his heirs, as long as these rights and obligations are included in the field of property law or in other words rights and liabilities that can be valued in money. The civil inheritance law system has a characteristic that is different from other inheritance law systems, which requires that the heir's inheritance be divided as soon as possible among those who are entitled to the property.

In the distribution of inheritance, the heir as the owner of the property has the absolute right to arrange what he wants for his property. This is a consequence of inheritance law as a regulatory law. (Maripigi, 2021)

Even as an heir, the heir has the right to regulate anyone who can become his heir and the heirs who have been determined by the heir have the right to determine matters in the distribution of inheritance after the heir has died both in the form of agreement and agreement based on deliberations, the contents of which of course does not violate the Civil Code.

If one of the heirs or other parties violates the agreement on the ownership of the inheritance, the heirs have the right to file a lawsuit to obtain their inheritance against all people who hold possession of all or part of the inheritance with or without rights, the same applies to them. who had cunningly stopped his beast. (hereditary rights request, Article 834 of the Civil Code).

The author departs based on one of the cases that often occurs, namely inheritance distribution disputes, which according to the author must be studied and reviewed Because of comprehensive legal consequences.

Research Method

The research method is meant as a type of thinking used or a way to carry out a research procedure. In writing this thesis, research methods are used as stated in the introductory law book written by Soerjono Soekanto: (Soekanto, 2006)

Research Object

The object of research regarding "Distribution of inheritanceAlm. Nandoli Gultom to their heirs in terms of the Western civil law aspect, namely the Civil Code regarding the distribution of inheritance according to Indonesian law".

Research Type

Research in this writing is normative juridical research. This type of normative research is research conducted by examining library materials or secondary data as basic material for research by searching for regulations and literature related to the problem under study, which includes legal synchronization related to the case under discussion (Benuf & Azhar, 2020). Normative juridical research includes research on legal principles, legal systematics, level of legal synchronization, legal history, and comparative law. So in normative juridical research, library materials are the most important source of material. So also in this case object The main focus of this research, which is normative juridical research, refers to everything about the Civil Code with the main focus on the object

being the distribution of inheritance from the heir's parents who have not been distributed.

Nature of Research

This research is descriptive-analytical, that is, it provides an overview and analyzes carefully, completely, and systematically the characteristics or characteristics of a situation, the behavior of an individual, or the behavior of a group by obtaining data on the relationship between symptoms with other symptoms which means this thesis provides an overview of the distribution heir based on civil Code. (Nurdin & Hartati, 2019)

Methods of Data Collection

In writing this thesis, data collection techniques were carried out using a document study "*library research*" In this case the author takes reference from books, writings, laws, and regulations that are related to thesis writing. This study was carried out by reading, analyzing, summarizing, quoting, and analyzing what was done at the Indonesian National Library.

Data and Data Sources

Usually in research, a distinction is made between data obtained directly from the public and library materials. The first is called primary data or basic data (*primary* data or basic data) and the second is called secondary data (*secondary* data). Based on the type and form of this research requires primary data and data seconds:

- a. Secondary data, among others, includes official documents, books, and research results in the form of reports, diaries, and so on. Data seconds namely data obtained from library materials through the results of library research, which are relevant to the contents of the thesis, such as:
 - 1) Primary legal materials are binding legal materials consisting of basic norms or principles, basic research, rules applicable laws, jurisprudence, and legal materials. The author will use legal materials related to this thesis, such as the Civil Code.
 - 2) Secondary legal materials are legal materials that provide explanations regarding primary legal materials such as, for example, Draft Laws, research results, works from legal circles, and so on. And also books, scientific journals, or scientific papers that are closely related to Western civil inheritance law.
 - 3) Tertiary legal materials, are materials that provide instructions and explanations of primary and secondary legal materials, such as internet media.
- b. This research is also supported by primary data. Primary data is obtained directly from the first source, namely the behavior of community members through research. Primary data in this study is based on interviews with notary due to describe the

division of inheritance according to the Civil Code based on sources who understand this research.

Data analysis

Data analysis was carried out qualitatively, meaning that qualitative research produces descriptive data, namely what is stated by respondents in writing or verbally, and real behavior. What is researched and studied is object research as a whole, as long as it concerns humans (Negara, 2018). The use of qualitative analysis methods is based on the following considerations: first, the data analyzed is diverse so it requires in-depth information, has different basic characteristics from one to another, and is not easy to quantify. Second, the nature of the data being analyzed is comprehensive and constitutes a unified whole. The data is classified and processed from the research results collected for later analysis.

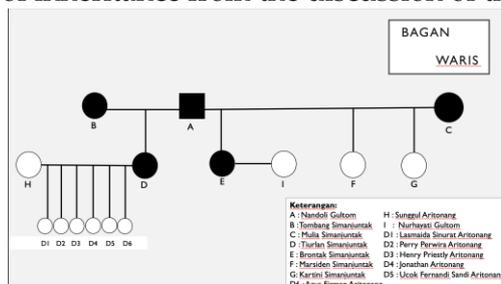
The data in this normative law research were analyzed qualitatively, meaning that the literature data is the verdict Medan High Court Decision Number 435/Pdt/2018/PT MDN, Civil Code, official documents, and books, which are analyzed in depth, holistically, and comprehensively. The goal is to understand or understand what is being researched obtain answers and produce an accurate analysis so that it can be analyzed, held accountable scientifically, and facilitate discussion as well as the basis for concluding.

How to Draw Conclusions

Concluding is done by using the deductive method, which means the method concludes from general to specific. Which is where this process of conclusion starts from all general things, namely starting from all things that have a concept in the notion of inheritance law which is then drawn further regarding all matters regarding the distribution of inheritance based on Western civil inheritance law.

Result And Discussion

The following is a chart of inheritance from the discussion of this case:



In the decision of the Medan High Court, Number 435/Pdt/2018/PT MDN decided that upholding the Court's decision state Simalungun Number 88/Pdt.G/2017/PN Sim. This means the judge at the Medan High Court agrees with the Court's decision to state that

Simalungun's heir was only Tiurlan Simanjuntak and because Tiurlan Simanjuntak had died, his inheritance rights were replaced by Sunggul Aritonang. Based on the contents of the decision are not exactly because Based on Article 832 of the Civil Code, those who are entitled to inherit from the heir are blood relatives or husband and wife who live with the heir until the heir dies. In the defense of the comparator stated that the children of the heir were not only Tiurlan Simanjuntak but there were 3 other children from the second marriage, namely Brontak Simanjuntak, Marsiden Simanjuntak and Kartini Simanjuntak who also had the right to inherit the inheritance from the heir.

By article 913 of the Civil Code, all children of the heir have absolute rights with an equal share of each, but in the ruling, the children from the heir's second marriage do not receive any share of the heir's inheritance which is not by Article 913 of the Civil Code concerning Legitime Portie (absolute right)

Article 852a explains that the position of a husband or wife whose partner has died beforehand is the same position as a legitimate child, which Nurhayati Gultom as the wife of Brontak Simanjuntak those who were left to die even had the same position as Brontak Simanjuntak as the son of the Heir

Conclusion

Based on the descriptions that have been discussed by the authors above, the conclusions can be formulated as follows:

The decision made by the Medan High Court Judge was not appropriate because the judge decided that the only child heir from the first marriage regardless of the position and rights owned by children from second marriages. Even though all the children of god heirs from the first marriage or both have absolute rights in inheritance, this thing based on Article 913 of the Criminal Code which contains: "Absolute part or legitime Portie, is a part of the inheritance that must be given to the heirs, in a straight line according to law, against which the deceased is not allowed to determine anything, either as a gift between the living, or as a testamentary".

The provisions of the decision also clearly do not see that children from the second marriage are also legal heirs based on Article 832 of the Civil Code which contains: "According to law, those who have the right to be heirs is blood relatives, both legal according to law and those outside of marriage, and the husband or wife who has lived the longest, according to the following regulations. If the blood relatives and the husband or wife who have lived the longest are not present, then all the inherited assets become the property of the state, which is obliged to pay off the debts of the deceased, as long as the price of the inherited assets is sufficient for that.

Then the comparator who is the wife of the first child from the second marriage who has died after the heir is entitled to a share of the inheritance Because she gets her share of the inheritance from her husband as the heir who has died and is also appealed and the

heir has no children, this is based on Article 852a of the Criminal Code which contains: "In the case of inheritance and a husband or wife who has died earlier, a husband or wife who has been left behind, in applying the provisions of this chapter, is equated with a legitimate child and a deceased person, with the understanding that if the husband and wife's marriage is a second or subsequent marriage, and from the previous marriage there were children or descendants -the offspring of the children, the new husband or wife may not inherit more and the smallest share received by one of the children, or by all of the successor's descendants if he dies first, and in any case the inheritance of the wife or husband may not exceed a quarter and the heir's inheritance.

If for the happiness of husband or wife and second marriage or marriage, the next testamentary has been issued, then if the amount of the portion acquired and inherited at death and the portion obtained and the will exceeds the limits and amount outlined in the first paragraph, the share, and inheritance at death must be reduced in such a way that the joint amount remains within the limits -that limit. If the determination of the will, wholly or partly, consists of usufructuary rights, then the price and usufructuary rights must be estimated, and the amount together including in the previous paragraph must be calculated based on the estimated price. What the following husband or wife enjoys according to this Article must be deducted in calculating what the husband or wife may receive or what has been agreed upon according to Chapter VIII of the First Book."

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