

Legitimacy Status of Inheritance by Adopted Children

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ABSTRACT

This study aims to analyze the legal strength of civil registration deeds as evidence of inheritance ownership. The first research, How is the legal force of civil registration deeds as the basis for controlling inheritance by children. As an official document that records a person's birth, a birth certificate plays an important role in legal proceedings related to property inheritance. In the context of inheritance law, the validity of the birth certificate is the main key in determining the right of an adopted child to inherit property from his adoptive parents. Along with a valid birth certificate, the adopted child has a strong legal basis to claim his inheritance rights. However, there are challenges and problems that may arise related to the validity of birth certificates in the context of inheritance control. Second, how can heirs report criminal acts against adopted children who have controlled the inheritance. Therefore, this study aims to analyze in depth the role of birth certificate power as a tool that allows adopted children to obtain inheritance rights, as well as to identify strategies that can be applied to ensure the effective protection of inheritance rights of adopted children. Through the approach of legal analysis and literature study, this study concludes that the strength of the birth certificate is a crucial foundation in proving the legal status of an adopted child in the process of controlling inheritance, but further efforts are needed to improve the legal protection of adopted children in the context of property inheritance.

Keywords : civil registration deed, inheritance, legal force, evidence

INTRODUCTION

The legitimacy status of the civil registration deed on which the inheritance is based is the legal correctness of a deed issued by a recording institution, such as a birth certificate, marriage certificate, or death certificate. These documents are used as official evidence to identify family relationships and inheritance rights. The legitimacy of the civil registration deed is very important in determining inheritance rights, as it is a legal basis officially recognized by the state (Ivena, 2021).

An adopted child is a child who is not a couple of husband and wife, but is cared for like a biological child in such a way that a family relationship is created between the person who adopts and the adopted child (Badriyah, 2015).

Children whose obligations are transferred from the family environment of their parents, legal guardians, or other persons who are responsible for the child's care and education to the adoptive family based on the determination of the court (according to the provisions of Legislation Article 1 number 9 of Law No. 35 of 2014).

Inheritance law is a law that determines what can happen to the property of a deceased person, namely regulating the transfer of inheritance rights from a deceased person and the consequences for heirs in this case concerning three factors, namely the inheritance of inheritance, the existence of heirs, namely the person who receives the

transfer or inheritance of the property obtained in the distribution of the inheritance (Kusumawati, 2024).

In Indonesia, there are three inheritance laws in the distribution of inheritance, namely Islamic Inheritance Law, Customary Inheritance Law, and Civil Law. Inheritance according to civil or civil law is a way of inheritance that can be carried out by non-Muslims. Civil law inheritance is the oldest way of inheritance in Indonesia. As explained by Indah Sari in the Scientific Journal of Aerospace Law, Civil Heritage Law is the oldest law in Indonesia because it is based on BW (Burgerlijk Wetboek voor) which has been in effect since 1848 with the principle of coordination (Poespasari & Usanti, 2023).

This principle means that any regulations that apply in the Netherlands also apply in its colonies, including the Dutch East Indies (Indonesia). The division of inheritance according to the Civil Code does not distinguish between men and women (Saraswati, 2022).

The rights of men and women in the Civil Code of inheritance are considered the same in terms of inheritance. Inheritance is a priority for a family, be it blood or marriage (Surbakti, Purba, & Kaban, 2024). To help understand the division of inheritance according to the Civil Code, here are some characteristics of civil inheritance law as explained by Indah Sari in her book. The legal basis is civil law especially for non-Muslims, Inheritance from father and mother or as a whole, There is no distinction between a man and a woman, the person receiving the inheritance is someone who is closest to the heirs, The inheritance is individual, not group, The inheritance is distributed after the death of the heirs and in case of disputes it is settled in the district court (Itua, 2012).

According to the Civil Code, there are four groups in the separation of wealth that show which heirs are prioritized, in other words, if there is a first group, then the group under it cannot inherit the other groups (Dahl, 2019). Group 1 where the child and his descendants are included as well as the surviving or longest-living spouse are entitled to inheritance. The surviving married couple or the longest living was declared as the heirs in 1935, the second group of parents and close relatives (biological relatives) both male and female and their descendants. For parents, there is a special provision that promises or guarantees at least 1/4 (one-quarter) of the inheritance even if they inherit together with the heirs' relatives. The third group includes grandparents, great-grandparents and great-grandfathers based on the order of inheritance. And in the fourth group, namely close family members and other relatives (Muharrar, 2023).

The provisions of Article 838 of the Civil Code explain that there are 4 criteria for heirs who do not have the right to inherit according to civil law in the distribution of inheritance of people who are convicted of murder or persecution of the deceased person (heirs), people who are convicted or accused of defaming the heirs, committing a criminal act with the threat of five years in prison or a heavier penalty, a person who can obstruct a deceased person (heir) with coercion or direct action that causes or revokes his will and a person who destroys or falsifies the will of a deceased person (heir) (Junaidi, Surahmi, & Saputra, 2023). Therefore, it can be concluded that inheritance cannot be controlled according to civil law because there is already a certain group of heirs who have strong legal force, while if you want to bequeath to someone outside the group of heirs, the group of heirs must be given as a gift/grant/will to someone who is not part of the heirs and in its division must not be more than 1/3 (one-third) of the part (Sahuleka, 2016).

According to the Compilation of Islamic Law (KHI), the heir is having a real relationship because of kinship (nasab), marriage or real relationship and a person who is

Muslim and is not prohibited from receiving inheritance based on article 173 of the KHI, but each family member cannot necessarily inherit the inheritance of his heirs even though the conditions in article 173 of the KHI are fulfilled because there are heirs who are increasingly closely related to the deceased. The heirs also need to remember the rules and in the order of receiving the inheritance, the party or also who is still a close relative is not included in the heirs because it belongs to the dzawil arham group, is someone who has a blood bond with the heir but does not inherit because he is protected by the main heir. If you look closely, Islamic inheritance law divides heirs into two types of heirs: nasabiyah heirs, heirs whose family relationship arises due to blood relations, therefore the genealogy shows the kinship relationship between heirs and heirs (PETER, 2018). Sababiyah heirs are inheritance relationships that exist for a reason al mushoharoh, which is a legal marriage freeing a slave (Al wala) or an agreement to help each other. In the compilation of Islamic law, there is no book of rules regarding the management of inheritance, where there is no appropriation of inheritance because the heirs who have the right to inherit are only relatives of the heirs or marrying the heirs of the inheritance can be given with grants/wills.

The purpose of this writing is to find out the strength of the civil registration deed as the basis for the control of inheritance by adopted children. Therefore, the following problems will be discussed, namely:

1. What is the legal force of the civil registration deed as the basis for controlling inheritance controlled by children?
2. What legal remedies can be taken by the heirs against the inheritance controlled by the adopted child?

RESEARCH METHOD

This research uses a qualitative approach. The subjects are the heirs who are left behind and the adopted children who control the inheritance. Interviews and group discussions are used as data collection techniques. The research data collection tool is an interview guideline.

RESULT AND DISCUSSION

What is the legal force of the civil registration deed as the basis for controlling the inheritance controlled by the adopted child?

Before taking action to resolve an inheritance dispute, it is necessary to know in advance who has the right to claim part of the inheritance, so that this does not happen if the entire inheritance is controlled by a person who does not have power over the property. These are the people who have the right to the inheritance left by their heirs.

According to Article 852 a of the Civil Code, there are four groups of heirs based on the gender of their relatives, namely. Group 1, where the legal heirs include children and their descendants as well as husbands/wives, or women who are left behind. The surviving spouse, or the spouse who lives longer, will be declared heirs in 1935. The second group, or those who have the right to inherit, are the family and the parents and siblings above them, both men and women and their children. For parents, there are specific provisions that protect at least 1/4 (one-quarter) of the inheritance, even if they inherit together with the heirs' relatives. The second group includes grandparents, great-grandparents, and great-grandparents in order of inheritance. Meanwhile, in the fourth group, namely close family members and other relatives (Ivena, 2021).

Currently, there are 3 inheritance law systems in Indonesia, namely inheritance according to custom, inheritance according to Islamic law and BW (Burgelijk Wetboek) inheritance whose implementation is based on people's legal choices. The order of inheritance distribution according to common law refers to elements that are applied in society or follow the provisions of BW (Burgelijk Wetboek) / Civil Code (Karaluhe, 2016).

There are many cases of people who carry out traditional adoption, such as what happened in a village in Gempol sub-district, Cirebon Regency, where the man and woman who do not have children take care of someone other than their family (adopted child). In most cases, the process of adopting a child takes place according to custom, if it does not comply with the court decision listed in article 68 paragraph 1 juncto article 66 aya (1) and article 59 paragraph (1). Population management law number 23 of 2006 as amended by the amendment of population administration law No. 23 of 2013 (hereinafter referred to as the population law) states that a birth certificate is a population document. Therefore, the birth certificate is a means of evidence, so the proof power of the birth certificate from several provisions of laws and regulations can be concluded that the provisions of laws and regulations can be concluded that the authentic deed is an instrument of evidence in certain laws. According to the Civil Code 64 HIR, 285 Rbg, 1870 birth certificates as authentic certificates have full evidentiary value in perdat cases until they can be proven otherwise

Regarding the inheritance rights of adopted children, this is due to the influence of legal pluralism in Indonesia. In the legal system in general, adopted children get the same rights as biological children, but there are also those who give different rights to adopted children. The legal basis that makes the guidelines is jurisprudence obtained by the decision of the Supreme Court of the Republic of Indonesia, and it can be concluded that the adopted child has limited rights to gono-gini property (common property). Their adopted children do not have inheritance rights (original property). In the Islamic system. The adoption of a child has no legal consequences related to the destiny and inheritance of the person who adopts it in the inheritance law BW (Burgelijk Wetboek), the law does not regulate the rights of the heirs of the adopted child, but each heir is entitled to a certain part of the inheritance along with the expression *Legitieme portie*.

For now, the chronology or issue that we raise is where there is a couple named HR and HJR. HJR, they are a couple who do not have children in order to have children, HR is known to have been married 4 times but still does not have children, so according to our resource person, namely the Village Head, that the two husband and wife raised a child named MK. In 2023 HR and HJR are known to have passed away and left inheritance assets such as movable and immovable objects, for example, several rice fields, houses and vehicles estimated to be worth 1.42 M. Long story short, HR has bequeathed to the village head that if he dies, he asks for inheritance or objects to be distributed to the heirs left behind as fairly as possible. But at the same time after HR and the day of death, the Constitutional Court suddenly revealed that all movable and immovable assets had changed in the name of the Constitutional Court, so the Constitutional Court claimed that all the inheritance of HR and HJR had been controlled by him. And at the same time, because HR and HJR's mother and father have no brothers and sisters from HR demanding to get part of the property left behind. But in this case, the Constitutional Court did not agree with this so he hired a lawyer/advocate to solve this problem.

After the dispute, the Village Head also intervened in resolving this matter, he explained the will that was previously spoken by HR to him, but the Constitutional Court still did not accept it. With this, the Constitutional Court allegedly suddenly issued or showed his birth certificate in which it stated that his biological parents were HR with Mrs. EM, which according to our resource person Mrs. EM was HR's ex-wife who claimed to be married to the 4th. I don't know where the birth certificate came from, the village did not admit that the Constitutional Court took care of the Constitutional Court's birth certificate even though the Constitutional Court was almost 40 years old and the marriage between EM's mother and HR occurred in 2010, so it is certain that there are irregularities in the issue of birth certificates and marriage certificates.

With this, the four HR brothers did not accept this, they sued muksin where the name of the suing brother was Alm.SU represented by his son SN, Alm. SM represented by his children named YT, TD, and KA. But the village is still trying to find a place for both parties to meet and discuss this matter as a family. So now there is no way out and all family members who will sue do not understand the law in Indonesia so that there is a delay in the management of inheritance so that currently all inheritances are still controlled by the Constitutional Court whose memorandum is only the adopted children of the two husband and wife who should only inherit a minimum of 20% maximum or no more than one-third of the inheritance left behind.

What legal remedies can be taken by the heirs against the inheritance property controlled by the adopted child?

The heirs have asked the village head for help to bring the inheritance dispute case to court but want to use civil means because they do not want anyone to be entangled in a criminal case. Each heir is entitled to a share of the inheritance. Article 1066 of the Civil Code states that no one who owns a part of the inheritance is obliged to obtain the inheritance undivided. Because in this case the entire inheritance is under the control of another person (adopted child), then all legal heirs have the right to claim a part of the inheritance, which must be divided fairly according to the applicable law (NIM, n.d.).

The division of heirs can be seen from the existence of proof of identity and legal status, the existence of civil registration deeds such as birth certificates or adoption certificates, which are usually used as proof of a person's identity and their legal status. In the context of inheritance. These deeds can be used to establish a blood relationship with the deceased person or the legal status of an adopted child (Suryani, Yunanto, & Widanarti, 2019). If there is recognition of legal status, if a person is recognized as an heir in a civil registration deed, the legal status must be issued by the court or the competent party in the process of settling the inheritance. This can provide a solid basis for a person to claim their inheritance rights, as well as official documents issued by authorities such as courts or similar government agencies.

Meanwhile, in this case, there was no civil registration deed made, both birth certificates and marriage certificates issued by the local government, but the Constitutional Court claimed that he had a birth certificate with the marriage certificate of his parents. Regarding the adoption deed, in this case, there is no adoption deed, according to our sources, the Constitutional Court was immediately taken and raised by the adoptive parents and there is no or not managed to the local government, so there is no claim for adoption.

Cirebon City Zoning Regulations, official written letters as referred to in article 4 paragraph 1 number 12 of the implementation of population regulations in 2023 are

official written letters issued by the authorities and have legal force as information obtained from population registration and population registration services.

Consider other laws Although civil status records can be strong evidence in determining a person's inheritance rights, they can also be enforced by courts or authorities may also consider other factors in deciding inheritance disputes such as the will of the deceased, customs, or other relevant legal provisions (Suryani et al., 2019).

Dispute resolution that can be done in this case can be done both juridically and outside the law. however, you can have a friendly discussion regarding dispute resolution to find a common language. In addition, the difference between litigation and non-litigation is the place where the negotiation of litigation issues occurs, resolving the problem in the relevant courtroom and can be done by the religious court, the general court, or the State administrative court, but in this case because Indonesia is the majority of Islam, so the settlement of inheritance disputes is usually carried out in the religious court. Meanwhile, if the dispute resolution is non-litigation, both parties are free to determine where to speak, but should be accompanied by a legal consultant so that the discovery of the bright spot of the dispute is more efficient.

Problem resolution with non-litigation has several forms, one of which is by artibrase according to Law Number 30 of 1999, which is the settlement of civil disputes outside the judicial process through an agreement stated between the two parties concerned. The different types of dispute resolution include mediation, negotiation, consultation, conciliation, and expert opinions.

The settlement in this case has gone through a non-litigation settlement where mediation has been carried out between the two disputed camps but no bright spot has been found. both from the village government have also mediated and negotiated with the Constitutional Court to resolve this case, but there is no good faith from the Constitutional Court, besides that the village does not want a mutual lawsuit between the two

What can be done in this inheritance control dispute is first, by holding the cancellation of the birth certificate on behalf of the Constitutional Court, if it is true that the document is original, then the cancellation can be carried out so that there will be no more civil registration deeds related to the heirs. To cancel the birth certificate, you can apply for the cancellation of the birth certificate through the district court by submitting supporting evidence such as a copy of the applicant's identity card, a copy of the family card, a copy of the birth certificate, and a copy of the family card. snippets of marriage certificates, and witnesses.

The applicant must also pay the cost of revoking the birth certificate issued by the court. At the end of the trial, the applicant will be summoned to court after the judges have gathered and the trial date has been set.

Registration of cancellation of registration documents occurs after the court decision is received by the population registration and population registration officer who issued the registration book. The cancellation of registration documents is determined by their inclusion in the register, the cancellation and cancellation of register extracts, and the issuance of register books according to court determination.

So that if there is a cancellation of the birth certificate, the distribution of inheritance can be carried out fairly, it can be done with Islamic law where the limit of inheritance ownership for adopted children is no more than 1/3 of the part and the rest can be distributed to the parents of the heirs if they are still there and can be distributed to the heirs' brothers if the parents of the two heirs have died.

CONCLUSION

Before resolving an inheritance dispute, it is important to know who is entitled to receive a share of the inheritance. Inheritance law in Indonesia is governed by three legal systems: customary law inheritance, Islamic law, and civil law. This creates pluralism in the Indonesian civil sector. The normal adoption process can result in having rights to joint property but not having rights to the original property. The process of adopting a child is carried out ethically if it is not carried out in court as referred to in Article 68 (1) juncto Article 66 (1) Article 59 (1) Paragraph 1 of the Population Management Law (hereinafter referred to as the Population Law) states that a birth certificate is a population document. Because a birth certificate is a means of evidence, the power of proof of an authentic certificate comes from some of our laws that require certain laws to require a deed as a means of evidence. .

According to the Civil Code 164 HIR, 285 Rbg, 1870, the Birth Certificate is an authentic deed that has full evidentiary value in civil cases until it can be proven otherwise from the adoption process, the disputed birth certificate, and the lack of understanding of inheritance law further complicate the resolution of this dispute. Supposedly, a more in-depth knowledge of inheritance law and clear procedures can help in resolving this issue, so that the rights of families entitled to inheritance can be fulfilled fairly and transparently.

There are several efforts that can be made by the aggrieved heirs, including through litigation and non-litigation settlements. It can be resolved through legal channels through a lawsuit or can be resolved familiarly, of course, accompanied by legal consultation so that the bright spot of the dispute is achieved. In this case, a non-litigation settlement has been carried out in the form of mediation but still did not find any bright spots, but the village does not want any residents to sue each other so that other efforts can be made by canceling the birth certificate where it is suspected that there is a forgery of the deed, if the deed can be canceled, then the heirs' family can divide the heirs from the beginning of the division can be done by law Islam with that the distribution of inheritance will be fair and there will be no parties who feel disadvantaged in the distribution of inheritance

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