JURNAL KONSTATERING
published by Master of Notary Law, Faculty of Law Sultan Agung Islamic University
Volume 1 No.1., April 2022 *The Role of a Notary in the...(Mohamad Taqi Al Jawad Alkaf)*
ISSN: 2828-4836

The Role of a Notary in the Distribution of Inheritance Based on the Inheritance System of Indonesian Citizens

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Abstract. *This study examines and analyzes the role of a notary in the distribution of inheritance based on the inheritance system of Indonesian citizens. Analyze the notary's constraints in the distribution of inheritance based on the inheritance system of Indonesian citizens, and formulate the ideal role of the notary in the distribution of inheritance based on the inheritance system of Indonesian citizens which guarantees legal certainty for heirs. The research method used in this study is sociological juridical, while the data collection method used is library research by collecting legal materials in the field and interviews. The data analysis method was carried out qualitatively and then presented descriptively. This research resulted in the notary's accountability authority in making a testamentary deed which still follows the provisions in article 16 UUJN Law No. 2 of 2014 concerning the Office of a Notary. Article 16 of this UUJN makes provisions regarding the requirements for a notary in forming a deed, if one of the conditions referred to is not met, the deed in question only has the power of proof as a private deed. Notaries who violate these provisions may be subject to sanctions in the form of written warnings, dishonorable discharges. In addition to being subject to these sanctions, the party that suffers a loss can demand reimbursement of costs, compensation, and if it is proven that the notary has committed a violation of the UUJN, such as falsifying the identities of the parties, falsifying signatures, then the notary can be held criminally responsible. The results of the study found that the role of a notary in the distribution of inheritance based on the inheritance system of Indonesian citizens, in serving the public in accordance with professional ethical morals and laws is to confirm acts in private law in the form of authentic deeds as perfect evidence with the aim of providing legal certainty as well as protection. law to related parties. Notaries have authority in the distribution of Islamic inheritance, but according to Notary Muhammad Sauki, SH, it is the court that has full authority to determine recognition and termination legally.*

Keywords: Inheritance; Law; Notary.

1. Introduction

The development of law in Indonesia, especially in inheritance law regulates the transfer of ownership rights of inheritance from heirs to heirs. Determine who can be the heir and determine the amount of their respective shares. Regarding inheritance law in Indonesia, currently the inheritance law in Indonesia is regulated in several applicable rules, namely: Islamic inheritance law that applies to groups of Indonesian residents who are Muslim, customary inheritance law for people who are subject to customary law, western inheritance law based on the Book of Laws The Civil Code (KUH Perdata) applies to groups subject to western civil law.

In the Civil Code (Burgerlijke Wetboek)[1]which is a translation of the Dutch civil law code, known as the Dutch East Indies population classification or known as legal politics as contained in De Indische Staatsregeling (IS) where the Netherlands divides the population/occupants (non-citizens)[2]into three groups, namely the white group, or the European community (article 163 paragraph 2 IS)[3], Eastern Chinese and other foreign easterners (Arabs, Indians, Pakistanis, Egyptians, etc.) (Article 163 paragraph 4 IS)[4], Among the Chinese community itself there is a tradition of pearisan. This inheritance law is dynamic following the development of society. Factors that cause these developments are in the form of educational level advancement factors, environmental factors and so on. In the inheritance system of Chinese descent, it is understood that only sons will inherit from inheritance (excluding Family Jewels, which are only for daughters).[5]This is due to the assumption that the son will be the head of the family and if he is the oldest child, then he will care for and take care of the ashes of his ancestors.[6], and the Bumiputra or Indigenous People of the Archipelago (Article 163 paragraph 3 IS).[7]Different groups apply different rules.

Until now, after Indonesia's independence, this classification is still valid and has not been removed. At the implementation level it often creates complications so that it becomes a problem in itself. Therefore, the provisions of inheritance law also follow legal rules based on population groups.

The application of population classification is still found in making inheritance certificates. A certificate of inheritance is required in the land registration process, especially due to inheritance, as explained in Article 42 paragraph (1)

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[1]Foreword Translator of the Civil Code, p. v.

[2]Kartohadiprodjo, Soediman. Introduction to the Legal System in Indonesia, cet. 10, (Jakarta: Ghalia Indonesia, 1982), p.56

[3]Ibid., p. 55

[4]Ibid.

[5]IGN Sungangga, Special Customary Law (Inheritance Customary Law in Customary Law Communities with a Patrilineal System in Indonesia), (Semarang: Faculty of Law, Diponegoro University, 1998), p.1

[6]Vasanti Pulpa, Indonesian Chinese Culture, (Jakarta: Djbatan, 1996), p.43

[7]Ibid.

namely "The transfer of rights due to inheritance occurs by law when the right holder concerned dies" in the sense that since then the heirs have become the holders new rights. Regarding who is the heir, it is regulated in the civil law that applies to the heir. Registration of the transfer of rights due to inheritance is also required, in order to provide legal protection to heirs and for the sake of order in the administration of land registration, so that the data stored and presented is always up to date.

In Indonesia, the expected institutions are regulated quite clearly in various provisions which ultimately provide citizens with choices to resolve inheritance issues. There are two instruments for solving inheritance problems, namely settlements outside the court and settlements in court. Each institution has different characteristics. There are institutions that do not have coercive power and there are institutions that have coercive power. The first institution is called a non-judicial institution and the second is called a judicial institution. Inheritance problems are related to inheritance rights, namely who is the heir and what part of the heir is.

Here the settlement of material and formal inheritance problems becomes a necessity. Materially, how the heirs and their parts become clear and clear in accordance with the applicable provisions. Formally it can be used as a basis for carrying out the implementation of inheritance including the transfer of inheritance which requires written evidence especially if it turns out to be a dispute. To fulfill these two elements, the state has determined what must be done if the inheritance is open, where the heirs must come and what output is produced. Here then the function of law is to regulate its role.

A letter of proof as an heir can be in the form of a Deed of Inheritance Rights, or a Letter of determination of heirs or a Certificate of Heirs. The provisions for making a certificate of inheritance in the State of Indonesia are still based on the division of population groups, as explained in the provisions of Article 111 paragraph (1) letter (c) Regulation of the Head of the National Land Agency Number 8 of 2012 concerning the Third Amendment to the Regulation of the Minister of Agrarian Affairs /Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration[8], which reads as proof of heirs can be in the form of: 1) Will from the heir; 2) Court decision; 3) Determination of the judge/head of court; 4) Certificate of Heirs carried out by 2 witnesses and confirmed by the Village/Kelurahan Head and Sub-District Head where the heir lived at the time of death; 5) Deed of inheritance rights from a Notary who was domiciled at the heir's residence at the time of death; or 6) Inheritance certificate from the Probate Court.

[8]Regulation of the Head of the National Land Agency Number 8 of 2012 concerning the Third Amendment to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration

Notary is one of the institutional instruments mentioned in the Civil Code whose authority is closely related to making authentic deeds and other powers. Departing from the need for a perfect means of proof in accordance with the Civil Code and the Civil Procedure Code as well as the need for material truth, a Notary has an important and strategic role and task as well as an honorable position, at least that's what can be read from the Civil Code.

In matters of inheritance, Noatris is given certain roles and tasks. Separation of inheritance is carried out in a deed before a Notary.[9]It should be noted that the Indonesian Civil Code applies this provision to the Chinese group.[10]This means that for groups of native Indonesian citizens, other provisions apply outside the Civil Code. The inheritance statement made by the Notary is essentially the culmination of a Notary's belief in what he heard, saw through an official document provided by the heir who wants to make a statement of inheritance so that it is the truth from the Notary's point of view. However, it turns out that in practice the inheritance statement made by a Notary is sued by parties who feel their interests have been harmed. Lawsuits of interested parties sometimes result in requests for inheritance statements made by a notary to be canceled and it is possible for a notary to become a co-defendant both civilly and criminally because of the inheritance statements he made.

2. Research Methods

1. Research Approach Methods

Approach Method The method used in this study is the Juridical Sociological Approach which aims to obtain legal knowledge empirically by going directly to the object. The sociological juridical approach is an approach that is carried out by looking at the reality that exists in practice in the field.[11]

2. Research Specifications

The specifications used in this study are analytical descriptive research, which is intended to provide as accurate data as possible about a condition or other symptoms.[12]According to Bambang Sunggono, analytical description is explaining, describing or disclosing things related to the object of research to then be discussed or analyzed according to science and theories or the opinion of the researcher himself, and finally conclude it.[13]

3. Data collection technique

a. Primary data;

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[9]Indonesia, Civil Code, Ps. 1074

[10]Ibid., Twelfth Chapter. Concerning Inheritance due to death (does not apply to the Eastern Foreign group, it is different from Chinese. It applies to the Tiong Hoa group.

[11]Agung Nugroho and Karmi, Notary Authority in Installing Mortagage as Effort to Settie Bad Credit (Second Way Out), Sultan Agung Notary Law Review, Vol 2, No 2, 2020, p 93.

[12]Soerjono Soekanto. Introduction to Legal Research, (Jakarta: UI Press, 1996), p. 6

[13]Bambang Sungguno. Legal Research Methodology, (Jakarta: PT. Raja Grafindo Persada, 2003), p.26-27

Direct data obtained in field research. This data was obtained from interviews related to the role of a notary in resolving inheritance disputes for people of foreign eastern, Chinese and native descent.

b. Secondary Data

The data needed to complete the primary data. The secondary data include:

1. Primary legal materials, which are legal materials that have binding power, namely statutory regulations related to the role of a notary in the distribution of inheritance based on the inheritance system of Indonesian citizens, including the following: 1945 Republic of Indonesia Constitution, Marriage Law, KHI, Regulation of the Minister of Agrarian Affairs etc.
2. Secondary legal materials, namely materials that are closely related to primary legal materials and can help analyze primary legal materials, namely:

- Scientific Books;
- Papers

c. Internet

Data collection techniques were carried out by library research and field studies. Data collection techniques in normative legal research are carried out by studying the literature on legal materials, both primary legal materials, secondary legal materials and tertiary legal materials and/or non-legal materials. Tracing these legal materials can be carried out through the internet media. .

4. Data analysis method

In this study the data analysis technique used was qualitative analysis, bearing in mind that the data that has been collected is processed through general steps, namely focusing on general steps, namely focusing on important matters and drawing conclusions and verification, where the data that has been collected has been reduced, then trying to find its meaning, then looking for patterns, relationships, similarities, things that often arise and then it is concluded.[14]

3. Results and Discussion

3.1. Role Notary in the Distribution of Inheritance Based on the Inheritance System of Indonesian Citizens

The division of inheritance is one of the things that can cause conflict in the family. In Indonesia, it refers to the inheritance law that applies to the division. As a notary, you also need to understand various laws related to inheritance. This is done to be able to help Indonesian citizens share inheritance among their families fairly. The law of inheritance distribution in the country has several types, namely:

a. According to Islamic Teachings

[14]Nasution S. Qualitative Research Methods, (Bandung: Tarsito, 1992), page 52

Indonesian citizens are predominantly Muslim, inheritance distribution can also be done according to Islamic teachings. The division of inheritance itself refers to the advice in the Qur'an. The verses of the Qur'an related to inheritance, either directly or indirectly, can be found in several surahs and verses as follows.[15]

1) Al-Nisa [4] verse 7
2) Al-Nisa [4] verse 11
3) Verse 12
4) Verse 176

Thus, the general principles contained in the two sources of Islamic law can be developed in accordance with the times and conditions in a particular place.[16]As for matters that cannot be stipulated in the texts of the Qur'an and Hadith but are felt as a legal necessity for today's Muslim society, a "New Law Line" has been developed, for example dealing with the child's right to replace the inheritance position of his deceased parents. first when the distribution of inheritance is done.

The principles used in inheritance law in the Compilation of Islamic Law are as follows:[17]

a. The principle of Bilateral/Parental, which distinguishes between male heirs and heirs in terms of inheritance, so that they do not know Dzawil Arham's relatives.
b. The principle of direct heirs and the principle of substitute heirs, namely
b. Civil Inheritance Law

Article 830 BookConstitutionCivil Law (KUHPerdata) or what is known as the Western Civil Inheritance Law states that division inheritanceonly if there is death[18]. If the owner of the property is still alive, the property cannot be transferred through the ratification of inheritance procedures or provisions.The distribution of inheritance according to civil law or the Civil Code is a way of dividing inheritance that is generally carried out by those who are not Muslim.

- **Group I**

This group consists of children and their descendants down without limit along with widows/widowers.

- **Group I**

Group II consists of the heir's father and/or mother along with their siblings and offspring up to the 6th degree

[15]Suhrawardi, and Commission, Islamic Inheritance Law, Jakarta: Sinar Graphic, 2013.h.20
[16]Mohammad Daud Ali, "Principles of Inheritance law in Compilation of Islamic Law" in Law Platform Number 9.Year IV 1993. p.4
[17]Supreme Court, Administrative and Technical Guidelines for Religious Courts, 2007 Edition (RI Supreme Court, 2008), p.168
[18]Wahyono Darmabrata, Nugroho, 2017. p.68

- **Group III**

Group III consists of blood relatives straight up.

- **Group IV**

Group IV consists of blood relatives in a more distant sideline to the 6th degree.
The division of inheritance differs according to the above groups which include:

a. In class I (first), the husband or wife and/or children of the inheritor are entitled to receive the inheritance. In the chart above, those who inherit are the wife/husband and their three children. Each gets 1/4 share.

b. Group II are those who receive inheritance if the heir does not have a husband or wife and children. Thus, those who are entitled are both parents, siblings, and/or offspring of the heir to the chart above. Those who inherit are the father, mother, and the two siblings of the heir. Each gets ¼ share. In principle, the parent's share cannot be less than ¼ part.

c. Group III In this group the heir does not have siblings so that those who get the inheritance are families in a straight line up, both from the mother's and father's lines. This chart inherits from grandparents from both father and mother. The division is broken down into ½ for the father's line and ½ for the mother's line.

d. Group IV In this group, those who are entitled to receive inheritance are relatives who are still alive in the top line. They get ½ share. While the heirs in other lines and degrees closest to the heir get ½ part.

Indonesian law does not distinguish between male and female heirs, nor does it differentiate birth order. There is only a provision that the heirs of the first class, if they are still there, will cover the rights of other family members in a straight line up or to the side. Likewise, groups with higher degrees cover those with lower degrees.

c. Customary Inheritance Law

This means that every Indonesian citizen has been given provisions on which legal route to use so that it is known that there is the term state law which is presented by the Civil Code, Islamic religious civil law which is presented by the Compilation of Islamic Law and customary law which has no formal rules but is reflected from the decisions of the Court or the Supreme Court, is also a source of Civil Law.[19]This has become a general agreement. At the practical level in the field, the plurality of inheritance laws creates confusion, especially regarding which inheritance law should be used. In general, the customary inheritance system in Indonesia adheres to the Individual Inheritance System, the Collective Inheritance System, and the Mayoral Inheritance System.

The Individual Inheritance System is an inheritance system that determines that heirs inherit individually. Tribes that adhere to this individual inheritance system include the Javanese, Batak, and Sulawesi tribes.

[19]Wiraatmaja, Rasyim, Widjaja Farida & Tassman, Davi. Indonesian Civil Law Jurisprudence Association (Jakarta: Advocate Office of Rasjim Wiraatmadja, SH, 2001).h.1

The Collective Inheritance System is a system that determines that the heirs inherit the inheritance jointly (collectively) because the inherited property cannot be divided into ownership of each heir.
Mayoral inheritance system (Dominant priority) is an inheritance system that determines that the inheritance of the heir is only inherited by one child. This system consists of:
a. Male Majority, i.e. if the eldest/eldest son or male descendant is the sole heir of the heir. For example Lampung.
b. Mayorat Female, namely if the eldest daughter is the sole heir of the heir, for example in the Tanah Semendo community in South Sumatra.
Customary inheritance law, like other customary laws, is generally in an unwritten form, although there is a small part that is stated in written form in old manuscripts or texts. Customary figures who have a role in implementing it due to the effects of social change include the higher the level of public education in general and traditional leaders in particular or for some indigenous peoples there are some customary laws that are starting to be abandoned because they are felt to be unfair or no longer in accordance with the demands of the times so that it can be said that the customary inheritance law that is being practiced at this time is not pure and not the same as customary inheritance law which was practiced for the first time.

Public officials are defined as officials entrusted with the task of making authentic deeds that serve the public interest, in which the officials referred to are notaries and land deed making officials. One of the officials related to inheritance issues is a Notary who is related to the deeds made. At least, the legal action that must be stated in the form of a Notary deed is dealing with wills (deeds of wills) and regarding the division and separation of joint assets (Deed of distribution and separation of joint property).

The involvement of a Notary in the implementation of inheritance law can be seen from the provisions that currently apply regarding Notaries. Provisions specifically regarding Notaries are regulated in Law Number 30 Year2004 Regarding the Position of Notary which has now been changed to Law Number 2 of 2014Concerning Amendments to the Notary Office Law, known as the Notary Office Law. UUJN, which used to apply Notary Office Regulations (PJN) can be said to be the implementation of the Ktab mandate of the Civil Law Act, especially Article 1868 when providing the definition of an authentic deed.

Based on the sound of the provisions contained in the Civil Code, then at least there is an institution that is called in relation to inheritance, and even then it is connected with the activity of separating inheritance, namely:

a. Heritage Treasure Hall;[20]
b. Notary Public;[21]
c. Court.[22]

Among the roles of a notary in the implementation of inheritance law that is currently being practiced is proving inheritance statements. To discuss this information on inheritance, it will begin with a formal legal discussion, namely finding an appropriate legal basis based on the Civil Code with the consideration that the Civil Code is a material law where the law regarding inheritance is explicitly regulated.

The notary in the distribution of inheritance plays a role in making the Deed of Inheritance Declaration and Certificate of Inheritance Rights. In the event of a dispute, the Notary can make deeds of peace and/or agreement on the release of claims.

The involvement of a notary in the implementation of inheritance law can be seen from the provisions currently in force regarding a notary. Provisions specifically regarding notaries are regulated in Law No. 2 of 2014 concerning the Position of Notary. The Notary Office Law can be said to be the mandate of the Civil Code, especially in article 1868. For the implementation of Article 1868 of the Civil Code, legislators must make laws and regulations to appoint public officials who are authorized to make authentic deeds and therefore that is, notaries are appointed as such officials based on the Notary Office Law.[23]

Authority of a notary, according to Article 15 paragraph (1) UUJN, a notary is a public official authorized to make authentic deeds regarding all actions, agreements and provisions required by laws and regulations and/or desired by interested parties to be stated in an authentic deed guaranteeing certainty the date of drawing up the deed, keeping the deed, providing grosse, copies and excerpts of the deed, all of this as long as the making of the deed is not also assigned or excluded from other officials determined by law.[24]

In the elucidation of the Notary Office Law, it is explained that the importance of the notary profession is related to making authentic deeds. Making authentic deeds is required by laws and regulations in the framework of certainty, order

[20]Civil Code (Burgerlijk Wetboek), translated by R. Subekti and Tjitrosudibio, cet. 27 (Jakarta: Pradnya Paramita, 1995), Ps 1072.
[21]Ibid., Ps. 1074
[22]Ibid., Ps. 1075
[23]Abdul Ghofur Anshor, Indonesian Notary Institute; Legal and Ethical Perspectives, Yogyakarta, UII Press.
[24]Habib Adjie. Bernas – Bernas Thought in the Field of Notary and PPAT, Bandung: Mandar Maju, 2012, p. 14

and legal protection. An authentic deed made by or before a notary public, not only because it is required by law, but also because it is desired by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for interested parties as well as for society as a whole. In the case of making a deed, The notary does not need to be held accountable because the notary who made the deed and the notarial deed is an authentic deed which will prove itself as valid evidence according to law. Because a notarial deed as an authentic deed must be seen and assessed for what it is so that if a party denies, accuses and/or judges that the notary deed is fake, then that party will prove it through a civil lawsuit process.

The relation is in making a certificate of inheritance, when the heir wants to make a letter of inheritance about what he wants to happen when he dies and the letter has perfect proof power that cannot be disputed by other people, then that person comes before a Notary to make an authentic deed which has perfect evidentiary power. When the heir comes before the Notary with the intention of making a deed of inheritance which will take effect after he dies, and when the deed of inheritance is opened and read out in front of the heirs, this is where the dispute begins. At the time of reading the contents of the will, when there is an heir who feels disadvantaged over the contents of the will, he files a lawsuit for cancellation of the contents of the deed,

Therefore, if this dispute continues and the notary is held accountable for the authenticity of the deed made by him, then as a public official who is authorized to draw up a deed, this authority must be protected by law.[25]

As a way to obtain legal protection against what is done by a notary, the notary may ask the heir to write and sign the inheritance as a private deed, then the deed will be attached to the minutes of the inheritance deed drawn up by the notary. This can be used as evidence for the notary when the deed becomes a dispute raised by the heirs regarding the truth of the contents of the deed. So that this can be the basis for the notary's defense, if there is an heir who denies the truth of the contents of the deed, because what the heir wishes has been written down by himself in the form of an underhand deed, which is then strengthened by making an authentic deed by the notary. Basically, these provisions are not regulated in a law, but this can be done by a notary as a form of protection for a notary in the event of a dispute over the deed he made. So that this can be used as evidence for the notary to refute all allegations that can harm and hinder the notary's work. In order to avoid sanctions that will be imposed on a Notary for committing irregularities, a Notary in carrying out his/her position must always comply with the provisions stipulated by the Law on Notary Position Number 2 of 2014 which is a guideline for all Notaries in

[25]Ibid, p.29

Indonesia in carrying out their position as a Notary and obeying all the provisions contained in the notary code of ethics. but this can be done by a notary as a form of protection for the notary in the event of a dispute over the deed he made. So that this can be used as evidence for the notary to refute all allegations that can harm and hinder the notary's work. In order to avoid sanctions that will be imposed on a Notary for committing irregularities, a Notary in carrying out his/her position must always comply with the provisions stipulated by the Law on Notary Position Number 2 of 2014 which is a guideline for all Notaries in Indonesia in carrying out their position as a Notary and obeying all the provisions contained in the notary code of ethics. but this can be done by a notary as a form of protection for the notary in the event of a dispute over the deed he made. So that this can be used as evidence for the notary to refute all allegations that can harm and hinder the notary's work. In order to avoid sanctions that will be imposed on a Notary for committing irregularities, a Notary in carrying out his/her position must always comply with the provisions stipulated by the Law on Notary Position Number 2 of 2014 which is a guideline for all Notaries in Indonesia in carrying out their position as a Notary and obeying all the provisions contained in the notary code of ethics. So that this can be used as evidence for the notary to refute all allegations that can harm and hinder the notary's work. In order to avoid sanctions that will be imposed on a Notary for committing irregularities, a Notary in carrying out his/her position must always comply with the provisions stipulated by the Law on Notary Position Number 2 of 2014 which is a guideline for all Notaries in Indonesia in carrying out their position as a Notary and obeying all the provisions contained in the notary code of ethics. So that this can be used as evidence for the notary to refute all allegations that can harm and hinder the notary's work. In order to avoid sanctions that will be imposed on a Notary for committing irregularities, a Notary in carrying out his/her position must always comply with the provisions stipulated by the Law on Notary Position Number 2 of 2014 which is a guideline for all Notaries in Indonesia in carrying out their position as a Notary and obeying all the provisions contained in the notary code of ethics.

The notary has the authority to make a certificate of inheritance for people belonging to the Eastern Foreign group. However, the certificate of inheritance has not been regulated in the laws and regulations in Indonesia, so there is a need for a unification of laws governing the format of the certificate of inheritance by a notary. With the authority that exists with a notary in Article 15 paragraph (1) of the Notary Office Law, the notary at the request of the parties, namely the heirs, can make evidence as heirs and a deed of distribution of inheritance rights in the form of partij deed.

By using the partij format of the deed, the legal consequence is that the material or substance of the deed becomes the responsibility of the parties who declare it

or explain it before a Notary. The notary is only responsible for the formality and external aspects of the form of the deed. Inheritance certificates are generally made at the request of one or several heirs. Even though the certificate of inheritance has received recognition in law and jurisprudence, it turns out that there is no general provision governing the form and content of the certificate of inheritance. Inheritance certificates made by notaries in Indonesia, made by following in the footsteps of their senior notaries, who in turn followed in the footsteps of notaries in the Netherlands. In the Netherlands, In Article 38 of the Notary Office Law it is stated that Verklaring van Erfrecht is included in the group of deeds which are exempted from the obligation to make a Notary in the form of minut. Even though as mentioned above, that there are no general provisions governing inheritance certificates, in fact there is a law, which incidentally contains a provision governing the transfer of rights to state bonds registered in the general ledger from their owners to their heirs. (Wet op de Grootboek der Nasionale Schul S) which in article 14 paragraph (2) UUJN says that for this purpose a certificate of inheritance (Verklaring van Erfrecht) must be made, in which it is stated in principle that Verklaring van Erfrecht contains: that Verklaring van Erfrecht is included in the group of deeds which are exempted from the obligation to make a notary in the form of minut. Even though as mentioned above, that there are no general provisions governing inheritance certificates, in fact there is a law, which incidentally contains a provision governing the transfer of rights to state bonds registered in the general ledger from their owners to their heirs. (Wet op de Grootboek der Nasionale Schul S) which in article 14 paragraph (2) UUJN says that for this purpose a certificate of inheritance (Verklaring van Erfrecht) must be made, in which it is stated in principle that Verklaring van Erfrecht contains: that Verklaring van Erfrecht is included in the group of deeds which are exempted from the obligation to make a notary in the form of minut. Even though as mentioned above, that there are no general provisions governing inheritance certificates, in fact there is a law, which incidentally contains a provision governing the transfer of rights to state bonds registered in the general ledger from their owners to their heirs. (Wet op de Grootboek der Nasionale Schul S) which in article 14 paragraph (2) UUJN says that for this purpose a certificate of inheritance (Verklaring van Erfrecht) must be made, in which it is stated in principle that Verklaring van Erfrecht contains:

- Who is the heir, when did he die and where was his last domicile.
- Who are the heirs of the heirs and what are the rights of each.
- Whether there is a will or not and if there is, there needs to be a detailed mention of the contents of the will.
- Family relationship between heirs and heirs.
- Limitations on the authority of the heirs, if any.

Making a certificate of inheritance by a Notary based on the provisions of Wet op de Grootboek der Nasionale Schul like that, even though it is not based on a general provision that specifically regulates it, but because it has been implemented for a long time and is accepted, it can now be said that the practice making a certificate of inheritance like that has become customary law. So from a special provision has been drawn into a general provision.[26]

Based on what was mentioned above, the certificate of inheritance made by a Notary is generally in the form of a unilateral statement from the Notary, based on the statements and evidence (documents) submitted or shown to him, containing data as required by Wet op de Grootboek der Nationale Schul mentioned above.

Even the norms contained in the Regulation of the Head of the National Land Agency Number 8 of 2012 concerning the Third Amendment to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration only regulate legal references, namely the law chosen by the inheritor, if it has been carried out, the evidence will be followed and become the basis for the implementation of land law.[27]
The heir can make a statement of inheritance which is then corroborated by two witnesses who know the truth of the situation at the time the inheritance certificate is drawn up, then confirmed by the Lurah or Village Head where the inheritance is open or where the heir dies and then registered with the District Head in charge of the Kelurahan or Village where the inheritance is open .
Generally in practice in the field, a certificate of inheritance of this type is made by the heirs as follows:

a. The heirs make their own certificate of inheritance which contains:
- deceased self;
- the death of the deceased;
- The marriage of the deceased is about whether the deceased was married or not;
- Children from marriage, namely whether there are children of the deceased;
- Conclusion about who is the heir of the deceased;

b. Signing of the inheritance certificate by all heirs on a stamp duty signed by two witnesses;

[26]http:// mkn unsri/2010/03/certificate of inheritance accessed on 16/08/2022
[27]Gunanegara. "The Use of SKW as a Basis for the Transfer and Acquisition of Land Rights (in the Perspective of Legal Unification)." Paper presented at the Symposium on Towards a National Certificate of Inheritance for Indonesian Citizens, Jakarta, 6 May 2009, p. 5.

c. Bring a certificate of inheritance to the Lurah or Village Head to ask for reinforcement, then sign and seal the position and register it in the Kelurahan administration. Documents attached during this process are:

- Photocopy of death certificate from the Lurah or Village Head;
- Photocopy of the deceased's marriage certificate;
- Photocopy of the deceased's Family Card
- Photocopy of the identity of the heir
- Photocopy of the birth certificate of the deceased's children

d. Bring a certificate of inheritance to the sub-district head to ask for a signature and position stamp, then register it with:

- Photocopy of death certificate from the Lurah or Village Head
- Photocopy of the deceased's marriage certificate
- Photocopy of the deceased's Family Card
- Photocopy of the identity of the heir
- Photocopy of the birth certificate of the deceased's children

Making a statement of inheritance by heirs like this has many weaknesses, some of which are caused by the following aspects:

a. Inheritance statement making competence;
b. Inheritance information generator capability;
The presence of two witnesses, the Lurah or the Village Head and the District Head in this type of inheritance statement does not help minimize the chances of a dispute occurring because even though there is a function of strengthening the inheritance statement, it is not preceded by proper actions, for example checking the completeness of documents including checking the truth and authenticity letters. The presence of two witnesses who know the circumstances of the heir, the Lurah or the Village Head and the Sub-District Head is nothing more than to fulfill the element of formality because their inclusion is required. Consideration of time, effort, cost and practicality that causes the process is not carried out properly.

4. Conclusion

Strengthened in practice is often called legalization in which every government agency or official has the authority to legalize and certify copies or photocopies of government administration documents and/or archives that they make. Even the legalization by the Village/Kelurahan and District Head did not give birth to legal consequences in terms of giving birth to rights and obligations.

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