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PROOF AS HEIRS AND THE ROLE OF NOTARY

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Keywords

Description of Inheritance Rights, Notary Authorities.

Abstract. Provisions of Article 15 paragraph (1) of Law Number 30 of 2004 Concerning the Position of a Notary (UUJN) in conjunction with Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary (UUJN-P) Notaries are subject to the right to making official deeds, including making inheritance certificates for Indonesian citizens in the form of notary deed (partij akten). Likewise with the provisions of Article 111 paragraph (1) letter c Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 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 Regulations Government Number 24 of 1997 Concerning Land Registration is the legal basis for the power of a notary to make a deed of inheritance for Indonesian citizens regardless of class, ethnicity and religion of the heirs. Preparation of legal documents. Inheritance SPT before a notary for Indonesian citizens is made in the form of an authentic deed, so the strength of proof is perfect, therefore binding on the heirs and other related parties.

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1. INTRODUCTION

The certificate of inheritance is a test tool for those who want to prove their inheritance rights from heirs to other people or third parties, but only as a first test tool. In particular, there is no uniformity of legal norms (in the form of laws) regulating information on inheritance law and the right to issue inheritance certificates.

It is also very difficult to determine who has the right to make inheritance declarations. This reflects Fatchur Rahman's view that it is not easy to determine who has the right to make a will, including the will law that is applied to complete a will, because until then there was no law related to wills in Indonesia, the legal entity where the will was declared applies to all Indonesian citizens?".

This difficulty stems from the fact that the Indonesian nation has cultural diversity so that the norms surrounding its life are also pluralistic, giving rise to the proclamation of pluralism. Legal inheritance Legal pluralism is generally interpreted as a condition in a certain area of social life, or as an explanation of the existence in a certain area of society, two or more legal systems coexist.

Another difficulty is the legacy of the provisions for classifying the population of Indonesia (at that time the Dutch East Indies) based on the provisions of that article. 163 IS (Indian State Regulation) and art in Article 131 IS and 75 RR inherited from the Dutch East Indies colonial government. Regerings Statute is the basic law governing the Indonesian colonial government which was jointly formulated by the king and parliament, and considered the constitution of the Dutch colonial government, Indische Staatregeling is an alternative to Reglement Regering. Article 163 IS (Indische Staatregeling) regarding population classification status:

1. The European group to which it belongs: all Dutch people, all people of European descent, but no Dutch people; all Japanese people; and all those who come from other countries than the Netherlands or non-Dutch Europeans are subject to the family law of their country of origin, which in principle complies with the rules. All children and descendants of certain or non-Dutch Europeans, as well as all people from other countries, other than the Netherlands or Europe, who were born in the Dutch East Indies;
2. customary citizens, including: all people who are citizens of the Dutch East Indies and have never immigrated to a group of people other than a group of people from; other groups that have

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merged with the normal community group by imitating or following the daily life of these indigenous community groups as well as by dating or marrying according to law;

3. Foreign oriental groups, including: members of non-European groups and indigenous groups. The foreign Oriental group is divided into foreign Oriental Chinese and non-Chinese foreign Oriental Chinese, such as Arabs and Indians.

However, for this demographic classification, the Government of the Republic of Indonesia has established legal guidelines for terminating this classification, among others based on Cabinet Order No. 11. Decision dated December 27, 1966 Number 31/U/IN/12/1966, after being considered by all of Indonesia, has decided to blur the differences between the Indonesian people (Europeans, foreigners and native easterners). As a basis for consideration, it is stated that in order to create a unified and homogeneous Indonesian nation and to build a sense of equality among other Indonesian people, practices and groups based on that must be immediately abolished.

However, these provisions appear to be insufficient to eliminate the practice of classifying the population which is used, for example, as a legal basis for the development of rules that apply after Indonesia's independence. Submitting evidence as an heir or commonly considered an heir's certificate, such as:

1. Letter number Dpt/12/63/12/69, dated December 20, 1969, from the Ministry of Home Affairs, Directorate General of Agriculture, Land Registration (kadastral), for certificate of inheritance and proof of citizenship;
2. Article 111(1)(c) Regulation of the State Minister of Agriculture/Head of the National Land Agency No.3 of 1997 concerning Provisions for Implementing Government Regulation No.24 of 1997 concerning Land Registration.

The two legal norms stipulate that for Europeans, Chinese and foreigners from Eastern Europe (except Muslim Arabs), proof of inheritance so far has been based on proof of inheritance in the form of a certificate issued by a notary and for foreigners from the East (non-Chinese/Chinese). on proof of inheritance issued by the Court of Inheritance (hereinafter referred to as BHP), India (indigenous people), provided that the proof of inheritance is based on expert signatures, one signature written and sealed. Lula and Kam's certificate of inheritance is known or according to the last place of residence of the heirs.

At this time, with the promulgation of the provisions of Article 111(1)(c) Regulation of the Minister of Agriculture and Land Planning/chairman of the National Land Agency of the Republic of Indonesia No. 16 of 2021 concerning the Third Amendment to Regulation of the Minister of Agriculture/head of the National Land Agency number 3 of 1997 concerning Ministerial Regulations. Implementation of Government Decree No. 24 of 1997 regarding land registration as a legal basis for the power of a notary to produce an inheritance deed for Indonesian citizens in, then ending the practice of grouping residents in the form of agreements or regulations in statutory regulations and number 12 of 2006 concerning Citizenship of the Republic of Indonesia, which is known only as Indonesian citizens and foreign citizens, especially those related to the issuance of inheritance certificates.

Regarding the latest regulations regarding inheritance certificates, which authorize notaries regardless of class, ethnicity and religion to formalize them, a step forward is taken, in accordance with the provisions of the 1945 Constitution, in particular Article 27 is paragraph (1) which explains: "all people have an equal position equal before the rule of law and government, and obey the law in government without exception." when legalized before a notary?

2. METHOD

This article is the result of a descriptive legal study. The author uses secondary data which includes statutory documents. Main documents such as laws and regulations, as well as secondary regulatory documents such as literature and books, magazines and other legal documents. This article will primarily use library documentation, i.e. the data is mostly taken from library documentation so there is no need to compile or make assumptions.

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3. RESULT AND DISCUSSIONDISCUSSION

A. To Give Power of attorney to a notary to produce a certificate of inheritance tax for Indonesian citizens.

The statement of the heirs is a means of evidence for those who wish to prove their inheritance rights to a third party or other person, but only as a first test. Important for third parties or third parties is the heir's statement as evidence proving the truth. In particular, there is no uniformity of regulatory norms governing the determination of heirs and who has the right to issue a certificate of inheritance, Also related to the authority of a notary in Law Number 30 of 2004 concerning Notary Affairs (UUJN) in conjunction with Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN-P) becomes a fact this is not mentioned expressly in the implementation of the deed of inheritance.

The position of a notary held within the legal framework needs to help and practice services to citizens who need reliable written evidence about a situation, fact or legal action. Therefore, the appointed notary must have a non-commercial spirit and a notary who feels supported by a notary can pay for the notary's services. Therefore, a notary is useless if the city government does not need it.

Provisions regarding notary sovereignty are regulated in Article 15 UUJN-P, but the authority to issue inheritance certificates is not strictly subject to Article UUJN-P and its declaration. Article 15(1) UUJN-P states:

1. The notary has the power to make reliable documents of all documents, agreements granted by law and (or) required for groups to be shown in the original documents, to ensure the date of documents for preservation of documents to provide, submit documents and confiscate these documents, provided that the preparation of this document is also assigned to other functions or other people who are affected by the rules or are not exempt from it.
2. The notary is also authorized:
   a. Confirm the signature and, in a special book, determine the correctness of the date of this letter. Keep your documents confidential by storing them in a special register.
   b. Make a valid copy of the personal document in the form of a copy explaining and explaining the description in the appropriate letter.
   c. Check the correspondence of the copy with the original letter.
   d. Legal advice relating to charter formation;
   e. Implementation of actions related to real estate; or grams. preparation of tender documents.

In addition to the powers mentioned in art. 1 and 2, the notary has further powers, which are regulated by statutory regulations. Article 15 paragraph 1 UUJN-P regulates the authority of a Notary to make a notary deed which includes all deeds, agreements and provisions required by law and/or interested parties who wish to make a notary deed. According to article 1868 of the Civil Code, the meaning of the first deed is: "Salaam means a deed made based on a form determined by law by a state official or official who has authority in the area where the deed was made".

Article 15 (1) UUJN-P also explains, one of the powers of a notary is to make a general deed, namely the general authority of a notary with limitations, provided that:

a. There is no exception for other officials who are appointed by law.
b. Regarding the actions of all agreements and policies required by law or required by issue.
c. In relation to an interested person (person of interest or interest) for the interests of the action taken or the information requested.

In society, a notary is known as a public official, he is authorized to make all documents, agreements and decisions regulated in public law, which must be recorded by the parties involved in official letters and are never binding. not for officials or certain other people.

Then a notary is appointed who, at the request of the person carrying out the legal act, draws up an authentic deed, is present as a witness in the conduct of the rules that he does, and records (confirms) what he witnessed or fulfills his wish. / the intent of those who entered the document. Therefore, the authority of a notary to carry out legal actions as referred to in Article 15 (1) UUJN-P is not limited.

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Notaries have general power of attorney or power of attorney in carrying out their duties. This general authority or authority is actually specific to the nature of general duties that exist in officials and general affairs, even though the duties of a notary are general in nature, the subject matter of the duties is of a civil nature.

In jurisprudence, there are different standards of authority. In general, power is divided into 4. (four) groups, , namely, the first: the authority under public law to make laws; second: the power to lead the government. The rule of law, which establishes the ruling power, states that government agencies are empowered to enforce the rule of law in certain events. Third, the authority to carry out judicial justice (judicial authority) contains the notion of dispute resolution with the obligatory announcement of the decisions of the parties, and fourth, civil law authority, that is, if a person fulfills certain requirements, he has the right to enter into a civil law contract.

Theoretically, among other things, authority can be obtained from laws and regulations with attribution. Attribution means the transfer of state power by parliament to state authorities. Devolution – giving new government powers through laws (new authorities created). In this case, the power of attorney can make a new power of attorney or extend an existing power of attorney. Internal and external obligations related to the implementation of the power of attorney.

When talking about inheritance statements, the first thing to understand is inheritance, there are several important elements in inheritance, namely heirs, heirs, heirs, inheritance rules and inheritance rights, all of which contain the word "heir expert" which indicates the person entitled to receive inheritance (inheritance) comes from the person who died earlier. Legal procedures require that every possible care is taken after a person's death to ensure that the identity of the deceased person survives and is known in practice as a declaration of inheritance.

In practice, when someone dies and family members may not directly alienate or transfer on behalf of the inherited goods, they have the right to open the inheritance (death of heirs).

On the basis of the crown deed, the heirs can carry out legal, administrative and real actions together with all the heirs who cannot be divided. Administrative actions, for example:

1. All heirs, among other things, have the general right to dispose of inherited property, use it, enjoy it, occupy it, lease it, and carry out other administrative actions.
2. Returning the name of the inheritance from the name of the crown prince to the names of all the heirs. For property cases, for example, specifically for property inherited in the form of land, you can contact the local land office, including:
   - to complete the registration of transfer of name on land registered in the inheritance register. (confirmed); And
   - Application for new rights (certificates) for unrecorded land such as B. girik-shaped land, old western land rights, state land.
3. Pledge/other collateral for inherited assets to other people, if the heirs want a loan or apply for a loan.
4. Giving inheritance to other people, for example. B. Sales, transfer of rights, transfer of rights and other matters that constitute a form of transfer of rights.
5. Change the status of joint ownership of inherited assets to each heir, make a deed of distribution and inheritance in front of a notary.

Thus, the concept of inheritance can be interpreted as "a letter or letter issued by an authorized supervisor or state institution, or by all the heirs themselves which is legalized, approved by the village head/lula or the village community." Avatar is interpreted as legal evidence of the transfer of inheritance rights from heirs to heirs, deed through a notary or court of origin. The purpose of inheritance is to show who is the heir of the assets that are affected by law, as well as how many parts or parts of the origin of the assets are distributed to each heir.

Certificate of Inheritance (SKHW) with the names of the heirs (deceased) and parts of the heirs. Based on Article 111(1)(c) Regulation of the Minister of Agriculture and Land Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of Agriculture and Land Planning/Head of the National Land Agency of the Republic of Indonesia regarding Provision 197, Government Regulation of the

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Republic Indonesia Number 97. Number 24 of 1997 concerning Land Registration can take the form of 9 87 as follows:

- Heirs can issue their own certificate of inheritance in front of the village head/lurah which is confirmed by the sub-district head;
- Made by notarial deed, i. H. in the form of an inheritance deed issued by a resident notary at the heir's place of residence at the time of death, or;
- Certificate of inheritance from the inheritance court.

Making a Deed of Inheritance Rights which is made by Notary deed can be done with the following procedure:

The First Stage

- The notary will ask for a letter of application for stamp duty or a power of attorney from the applicant/heir;
- Request a death certificate of the deceased;
- Checking wills in the Central Register of Wills, regardless of whether the heirs have made a letter or not. This is closely related to the division of inheritance when a will or will, or to avoid conflict.

Second stage

- The notary makes a statement regarding the heirs. Submitting a statement of heirs that guarantees the safety of the regulations, requires not only the accuracy of the notary who made it and the cooperation of the heirs to describe from their civil registration certificates also the participation of the government which organizes:
- accurate/reliable data that is contained in the civil registration deeds.
- Accurate and orderly data from the Ministry of Law and Human Rights regarding the registration of wills that are well managed and national (all over Indonesia) in collaboration with notaries throughout Indonesia in accordance with Article 16 paragraph (1) letter h UUJN, which requires notaries to produce and send a list of wills not later than the fifth (5) of each month.

The notary when submitting the certificate of heirs must always refer to the Center for Wills List, because if there is no checking of the possibility of claims from heirs who feel disadvantaged at a later date if it turns out that a will was made by the heir during his lifetime which regulates the distribution of inheritance from inheritance if the person concerned has passed away.

The existence of a will will affect the contents of the heir's statement drafted by a notary, because one or more heirs may be removed as heirs based on a will or part of the inheritance from the heir at all or will only receive an absolute share.

As is known, the husband or wife of the heir can be dismissed as an heir, and does not get any part of the heir's inheritance because neither the husband or wife of the heir can claim an absolute share (legitieme portie) of the spouse's inheritance (which is subject to western civil inheritance law). Meanwhile, parents in a straight line from top to bottom when separated, will still receive an absolute share and inheritance from the heir. If it turns out that this is ignored, it will have fatal consequences because the absolute part that should be obtained cannot be simply eliminated.

Based on this description and Based on Article 15(1) UUJN-P, Notaries have the authority to issue inheritance certificates in the form of official deeds not only for people who are subject to Civil Law but for all Indonesian people. (Indonesian citizen) regardless of ethnicity. Prior to the unification of inheritance law, the division of inheritance was carried out according to the law applicable to the heirs. Which form of authentic writing is more in line with the UUJN-P because legal discovery can be made in the form of part of the writing (partij akten).

In order to exclude and eliminate discrimination in collecting information about heirs, only a notary can provide information about heirs. Notaries must actively translate the values of independence into concrete actions, namely the formation and appointment of a Notary is the only official authorized to provide wealth information to all Indonesian citizens regardless of class, ethnicity, or religion. These rules have been regulated in accordance with legal provisions. Article 111

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paragraph (1) letter c Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 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 the Year 1997 Concerning Land Registration.

In addition, through the appointment as a notary by the Minister of Law and Human Rights of the Republic of Indonesia, the notary obtains a bachelor's degree in law (S1), which always covers subjects on western civil inheritance rules, Islamic inheritance law and general inheritance law and includes matters of notarial deeds, Inheritance distribution is a must, so that it can give the impression that the notary has sufficient knowledge of inheritance law before being appointed as a notary. Therefore, a notary must have the authority to issue inheritance references for all Indonesian citizens regardless of class, ethnicity and religion.

Notary is a position that has its own power and also has to fulfill the position itself which has statutory regulations such as: Power is a compulsion to act associated with a position based on the law that applies to that position.

Submission of an inheritance deed by a notary on behalf of all Indonesian people is in line with the concept of a rule-of-state, because it is in accordance with the elements of legal certainty and equality before the law, and the authority of a notary to turn evidence into a deed of inheritance is also based on UUJN-P, an evolution of growing legal theory in Indonesia by Mochmadji Kusumaat, the Indonesian nation of Indonesia through the study of Indonesian greatness and culture, a society was created, so that with these models a theory of the greatness of development law was born, developed and developed according to Indonesian conditions, its application was in harmony with the conditions and conditions of a pluralistic Indonesia.

Making a deed of inheritance made by a notary in the form of a party deed (Partij Akten), g. H. act before (ten overstan) notary. In the party agreement, the statement of the heir acting before a notary and stating and confirming that the heir is the heir to the crown prince is reported truthfully.

B. The Rule Value of an Inheritance Deed Designed in the Form of a Notary Deed.

The main power of a notary is to issue general deeds in accordance with the provisions of Article 15(1) UUJN-P. Pursuant to Article 15(1) UUJN-P, a notary has the authority to issue a statement of inheritance rights in the form of an authentic deed not only for those who are subject to Civil Law but for the entire Indonesian nation (Indonesian Citizens). Coverage of inheritance rights means the civil rights of every citizen of the country, not gifts from the state/government or anyone, although until now there has been no unification related to the form of formality of the heirs' information as well as officials authorized to make it which is strictly regulated by law .

It is widely believed that Indonesia has long been an independent country. We must put an end to differences and discrimination based on differences in formality and status of institutional officials who are required to provide information about inheritance rights regardless of class, ethnicity and religion. In this provision, the notary has the authority to make a Deed of Inheritance Rights without mentioning the classification of the population, but this regulation still requires further explanation and implementation, because it turns out to be potentially contradictory to UUJN-P. Given the authority to make inheritance, the notary must actively implement the values of independence in material practice, namely establishing a notary and making him an official who makes inheritance letters for all Indonesian citizens, regardless of class/ethnicity. or religion.

A stronger legal basis for a notary to be the only official/agency authorized to legalize inheritance deeds on behalf of all Indonesian people is contained in Article 15(1) UUJN-P, which concerns the authority to legalize deed. UUJN This is the only law that regulates the activities of notaries in Indonesia, which means that the law of notary agreements is one unit. The notary must position himself as the only official who can issue a certificate of inheritance in the form of a solemn deed to all Indonesian citizens who are no longer of a certain ethnicity. This notarial deed is in accordance with the power of attorney in Article 15. Indonesian ethnicity is an Indonesian person who

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has been an Indonesian citizen since birth and has never voluntarily accepted the citizenship of another country.

Specifically, UUJN Juncto UUJN-P has provided a nomenclature for the original document signed before a notary, namely a notary deed, as emphasized in Article 1 point 7 UUJN in conjunction with UUJN-P. Likewise, the statement of inheritance before a notary fulfills the authenticity of an authentic deed. According to Zainal Asikin, authentic. The absence of a certificate (original) is not enough if the certificate is issued by or before an official. If the officer is incompetent and lacks authority or there is an error in the form. Sudikno Mertokusumo added that a deed cannot be considered authentic if the maker does not have the ability and does not meet the requirements.

The statement of inheritance before a Notary fulfills the qualifications as an authentic deed and has full evidentiary value and is based on normative standards as Irawan Soerojo's opinion, fulfillment of the requirements for an authentic deed, namely first: according to the method stipulated by law, second: made by a government official or earlier, and third: documents made on the spot by an authorized government official or before. These elements are set forth in a statement on the inheritance rights of Indonesian citizens made before a notary in the form of a party letter (partij akten). In addition, the deed of inheritance drawn up by a notary has gone through the inspection process in the list of wills of the Ministry of Law and Human Rights of the Republic of Indonesia, regardless of whether the heirs have made a will or not, because this will definitely affect the inheritance (share) of the heirs. If the heirs (heirs) meanwhile issue self-made inheritance certificates and find out that the village/lurah administrators and kelurahan administrators have not gone through the review process in the list of central wills of the Ministry of Law and Human Rights of the Republic of Indonesia, this will certainly affect the principle prudence and good faith in the distribution of inheritance and which is most important. between heirs.

4. CONCLUSION

Notaries have the authority to issue inheritance certificates for Indonesian citizens regardless of class, ethnicity and religion in the form of participation certificates (partij akten) in accordance with UUJN and UUJN-P provisions Article 15(1) and Article 111(1)(c). Regulation of the Minister of Agriculture and Land Planning/Head of the National Land Agency of the Republic of Indonesia No. 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of Agriculture/Head of the National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. open inheritance. The proving value of the deed of inheritance issued by a notary in the form of a deed of participation by Indonesian citizens fulfills the requirements for an authentic deed and perfect proof, such as the function of an authentic deed in general.

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