

THE ROLE AND RESPONSIBILITY OF THE MEDAN ORGANIZATION CENTER IN ISSUING INHERITANCE RIGHTS CERTIFICATE

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ABSTRACT

It can be seen that in the process of procuring goods/services, it does not only involve PPK but also other parties who play a role in procuring goods/services which are interrelated, namely PA and KPA. Arrangements for agreements for the procurement of goods and services in Indonesia are regulated in Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services. The responsibility of the PPK position in procuring government goods/services is the responsibility for the validity (legality) of the use of authority in procurement by the PPK which is based on authority, procedure and substance, and gives rise to government/state accountability. Based on the research results, it is understood that the resolution of disputes in goods and services procurement agreements resulting from default is that the parties make peace efforts or in other words will resolve the dispute that occurs by means of deliberation and if an agreement cannot be reached by deliberation, then the parties agree to resolve the dispute. by taking legal action through the courts.

1. Introduction

A state institution specifically tasked with managing unmanaged assets or inherited property is the Inheritance Office (BHP). As outlined in Article 3 of Minister of Law and Human Rights Regulation 7/2021, the scope of BHP's functions is quite broad, one of which is managing inherited property in the form of inheritance.

Inheritance is a civil event subject to inheritance law. According to the doctrine of some scholars, inheritance law is a separate part of civil law. However, many also argue that inheritance law is part of family law.

Regardless of the doctrine, it must be understood that inheritance law is rooted in civil law. Civil law in Indonesia is a legacy of the colonial government, based on the principle of corcodancy from the Dutch Burgerlijk Wetboek (BW) codification, which follows the French Civil Code. It cannot be denied that some regulations from the Dutch government are still in effect and adhered to today.





With the enactment of Law Number 12 of 2006 concerning Citizenship, Article 4 (a) states, "Any person who, based on statutory regulations and/or agreements between the Government of the Republic of Indonesia and other countries prior to the enactment of this Law, has become an Indonesian citizen," this population classification remains in place and applies to inheritance matters.

The management of inherited assets cannot be separated from the principle of population classification. Population classification not only impacts the legal system adopted for inheritance, but also encompasses the principles, calculations, and distribution of inheritance. It also regulates who is authorized to produce evidence, in the form of an inheritance certificate.

Specifically, there is no clear legal basis for producing an inheritance certificate. However, it is important to note that an inheritance certificate is a crucial document for proving heirship. Because inheritance often involves the transfer of rights, it must be prepared carefully and diligently.

This diversity leads to differences in customs and traditions among ethnic groups, so it can be said that there are no differences in customary law applied between one ethnic group and another, especially regarding inheritance. Customary inheritance law applies to indigenous groups. Inheritance that follows customary law is proven by a certificate of inheritance issued by the local village head, witnessed by the sub-district head.

Based on the three inheritance laws above, it can be seen that proof of inheritance in the form of a certificate of inheritance can be issued by different institutions depending on the inheritance law adopted by the testator and their heirs. None of the three inheritance laws above stipulates that the certificate of inheritance must be issued by the Inheritance Office (Balai Harta Peninggalan). However, Article 3 of Minister of Law and Human Rights Regulation Number 7 of 2021 stipulates that the Inheritance Office (Balai Harta Peninggalan) is also authorized to issue inheritance certificates in order to carry out its function of managing inheritances. This raises a legal issue regarding the authority of the BHP (Inheritance Agency) to issue inheritance certificates.

2. Research Method

This research is descriptive and analytical, meaning it merely describes the state of an object or event without the intention of drawing general conclusions. The type of research used is normative juridical, which is conducted by examining secondary data such as legislation, court decisions, and so on.





The data sources in this study were obtained through secondary sources. Secondary data is data obtained from bibliographic materials, which are read, analyzed, and quoted as needed to meet the research needs.

This data collection used library research methods to obtain an overview or information about similar research related to the problem under study. The collected data will be thoroughly analyzed using qualitative analysis or described in sentences. Qualitative analysis is based on the paradigm of the dynamic relationship between theories, concepts, and data, which constitutes feedback or constant modification of theories and concepts based on the collected data.

3. Results And Discussion

Results

The Civil Code (Burgerlijk Wetboek) does not contain a specific article defining inheritance law, and it can only be understood that inheritance occurs through death, as stated in Article 830 of the Civil Code. Therefore, the definition of Western inheritance law according to the Civil Code is that without a person dying and leaving behind assets, there will be no inheritance issues.

The definition of inheritance includes the subjects of inheritance, namely the deceased family members and those left behind or those given a will by the testator; the event of death that gives rise to the inheritance; and the object of inheritance, namely the inheritance left by the testator. All of this is regulated in Inheritance Law. In short, inheritance law is all regulations governing the transfer of inheritance from the testator upon death to the heirs or designated persons.

The form of a deed is regulated in the provisions of Articles 38-53 of the UUJN, the first part concerning the form and nature of the deed that every notarial deed is divided into 3 (three) general parts, namely the head of the deed consisting of the title of the deed, the deed number, an explanation of when the deed was signed in full and the full name along with the domicile of the notary or his substitute; the body of the deed consisting of the identity of the appearer, information regarding the position of the appearer, the contents of the deed, and the identity of each identifying witness; and finally the closing of the deed consisting of a description of the reading of the deed, a description of the signatory (surrogate) or translator (if any), the complete identity of the instrumental witnesses, and an explanation of the presence or absence of a renvoi. This is the general regulation of deeds so, every deed contains these elements, however, the type must be adjusted to the needs.





A certificate of inheritance is a document issued by an authorized official and establishes who, according to law, is the legal heir of a deceased person, based on the documents presented to them. If necessary, the heirs may request testimony from witnesses knowledgeable about the family for whom the certificate of inheritance is being prepared.

As a member of society, while still alive, a person has a place in society and possesses rights and obligations towards other members of that society and towards objects within the community. This is a method for resolving legal relationships within society that give rise to more or less difficulties as a result of a person's death. This must be resolved as quickly and accurately as possible to provide legal certainty and legal protection to the parties involved.

A certificate of inheritance is one of the documents proving heirship that can be used as the basis for the heirs' rights to take legal action regarding the testator's estate, in addition to other documents proving heirship, namely: a will from the testator, a court decision, and a judge's/chief court's ruling. The legal act of preparing a certificate of inheritance must be carried out jointly with the other heirs. This legal act can include registration, transfer of rights due to inheritance, and transfer of ownership of jointly owned land to fellow owners or a third party.

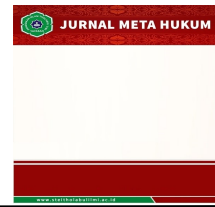
In principle, a certificate of inheritance can be prepared by just one heir, who must appear before the village head or sub-district head and a notary. Therefore, if there is an heir listed on the certificate, that heir can then transfer the rights to the inherited land to another party without the consent of the other heirs because their name is not listed on the certificate. This will result in losses for the heir whose name is not listed on the certificate. This will certainly give rise to problems regarding the land.

In obtaining an heir certificate, the general procedure involves gathering the necessary requirements and then appearing before the relevant agency/officer. The regulations also differentiate between Indonesian citizens of non-Chinese and non-Eastern descent and Indonesian citizens of Chinese and Eastern descent.

Essentially, the purpose of obtaining an heir certificate is to legally identify the heir. Without an heir certificate, a person deemed entitled to an inheritance may be prevented from receiving their share of the inheritance. Proof of status as a child of a spouse or parent is still insufficient to establish full rights to the inheritance. Therefore, an heir certificate is crucial for preventing abuse of authority to obtain the inheritance.

All data will then undergo final verification by the section head and the sub-district secretary. Once the verification is complete, the sub-district head will





sign the document, and the signed documents will be given to the applicant. The applicant will then be asked to photocopy and submit copies to the sub-district office for archiving. The original documents will be stamped and returned to the applicant.

4. Discussion

Death is a natural cycle in life. From a legal perspective, death is a legal event with consequences. One of these legal consequences is the transfer of rights and obligations based on inheritance. The three types of inheritance laws applicable in Indonesia share a common principle: inheritance is a logical consequence of the death of a testator. All of the testator's assets are transferred through inheritance to their heirs.

Although theoretically, inheritance assets automatically transfer from the testator to the heirs upon death, a formal legal deed is still required as documentary evidence that a person is the true owner of the inheritance. This is because inherited land requires a registration process if the transfer of rights occurs due to inheritance. Similarly, inherited savings accounts in a bank account require a process for disbursement or transfer of funds from the testator's account to the heirs.

The function of an inheritance certificate as evidence to identify the legal heirs and their share of the inheritance is increasingly important because some legal acts require this certificate as an absolute requirement. For example, in the case of the transfer of land rights through inheritance, the local land office will request an inheritance certificate as the basis for the transfer of rights.

Guardianship is a condition in which a person (*curandus*) is deemed incapable of acting independently (personally) in legal matters due to their personal nature. Based on this, the person is classified by a judge as incompetent. This person is assigned a representative under the law, known as a curator.

For certain reasons, an adult is considered equal to someone with mental illness, because even though they are adults, they are considered incompetent to perform legal acts.

Minors may not be granted guardianship because they remain under the authority/responsibility of their living guardian. A person placed under guardianship due to wastefulness retains the right to perform legal acts such as making a will and entering into a marriage. In terms of the position and role of the Inheritance Hall as a supervising trustee, it is the same as a supervising trustee. The supervisor's duty of care ends when the person placed in care recovers or dies.



A will (testament) is a deed that contains a person's statement about what he wants will happen after he dies and can be revoked by him. A Will may only be declared in a written or graphic deed, either a public deed or a secret or closed deed.

After the person who bequeathed dies, the closed or secret will must be submitted to the Inheritance Hall in whose area the inheritance in question has fallen, then the BHP must open the letter and make a verbal process of receiving and opening the will according to the circumstances in which the will is located, to finally return it to the notary.

If we examine the provisions of the relevant laws, specifically Law No. 34 of 2004 as amended by Law No. 2 of 2014 concerning the Office of Notary, Article 16 paragraph (1) letters h and i, the obligation of a Notary is to prepare a List of Deeds relating to wills and report it every month no later than 5 (five) days in the first week to the Minister of Law and Human Rights of the Republic of Indonesia, ic. Directorate General of General Legal Administration ic. Directorate of Civil Procedure ic. Head of the Will Registration Section, although there is no obligation to make a copy of the report to the Estates and Estates Office (BHP), in reality the Estates and Estates Office receives many copies of general will reports from Notaries.

Basically, the process of managing unmanaged inheritance is not much different. The process for managing an unmanaged estate is essentially the same as managing an estate declared absent. This process begins with a court ruling regarding the person's absence. Therefore, the process for managing an unmanaged estate begins with an examination of the deceased's estate, which requires obtaining a death certificate from the Civil Registry Office.

If the examination reveals any of the above elements, the Estates Office is legally obligated to manage the estate, including by registering the estate. If deemed necessary, the Estates Office may seal the estate.

If a person leaves their residence without granting power of attorney to represent them in their affairs and interests or to manage their management, or if the power of attorney granted is no longer valid, while circumstances urgently require managing all or part of the management, or to provide representation for them, then upon the request of the interested parties or upon the demand of the Prosecutor's Office, the District Court in the absent person's residence must order the Estates Office to manage all or part of the person's assets and interests, defend their rights, and act as their representative.

This means that if a person leaves their residence and their whereabouts are unknown, either inside or outside Indonesia, and it cannot be proven that they





have died without providing power of attorney, the management of their assets and interests must be based on a District Court Decision.

The Estates Office (BHP) is essentially an institution under the auspices of the Department of Law and Human Rights (now the Ministry of Law and Human Rights) and is within the Directorate of Civil Procedure. The scope of the BHP's authority is stipulated in Article 2 of Minister of Law and Human Rights Regulation 7/2021, which states that the BHP is tasked with representing and administering the interests of legal subjects in the implementation of court decisions and/or rulings or legal interests in the field of inheritance, based on statutory provisions.

The BHP has the authority to issue certificates of inheritance for foreigners other than Chinese. However, this authority is limited to registering the transfer of land rights. To assess whether a certificate of inheritance issued by the BHP can be used as a basis for other legal actions, interpretation is required. In this case, a systematic interpretation is used, referring to other similar regulations. Because the regulations of the Minister of Law and Human Rights do not provide detailed provisions, the regulations of the Minister of Agrarian Affairs and the Head of the National Land Agency can be consulted. However, to assess the quality of the evidence to determine whether the certificate of inheritance issued by the BHP can be qualified as an authentic deed, it must be examined based on the elements contained in Article 1868 of the Civil Code.

5. Conclusion

The legal provisions for certificates of inheritance rights under Indonesian national inheritance law are subject to the inheritance law of the testator, not the heirs. By obtaining a certificate of inheritance rights, the heirs can jointly manage joint assets still in the testator's name. Although the respective shares are stated, the amount each heir receives is determined separately in the deed of division and separation of the estate.

The procedure for obtaining a certificate of inheritance rights involves gathering the necessary requirements and then appearing before the relevant agency/officer. The regulations also differentiate between Indonesian citizens of non-Chinese and non-Eastern descent and Indonesian citizens of Chinese and Eastern descent. The benefit and function of obtaining a certificate of inheritance rights is to legally identify the heirs. Without a certificate of inheritance rights, a person deemed to have the right to inherit may be prevented from receiving their share of the inheritance.





The authority of the Estate Management Agency (Balai Harta Peninggalan) in issuing certificates of inheritance rights is present to carry out its function in managing inherited assets, especially in terms of inheritance to make certificates of inheritance for foreign eastern groups other than Chinese. Normatively, the authority to issue certificates of inheritance by the BHP for a particular group does not exist attributively because there are no laws and regulations that specifically regulate in general that certificates of inheritance for foreign eastern groups non-Chinese must absolutely be made by the BHP, and Permenkumham 7/2021 itself does not further explain this authority. The authority of the BHP to make certificates of inheritance is only for certain legal acts, namely the registration of transfer of land rights.

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