

The Validity of Unilateral Registration of Inheritance Land Transfer Rights (A Case Study of Supreme Court Decision Number 4041 K/PDT/2022)

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Abstract. *This research analyzes the case in Supreme Court Decision Number 4041 K/PDT/2022, where the subject of the inheritance is a land right registered unilaterally by one of the heirs without the division of the inheritance among other heirs. The study discusses issues related to the system of registering the transfer of inheritance land rights and the validity of the certificate unilaterally registered without distribution to other heirs. The research methodology used is doctrinal. The findings indicate that when registering the transfer of inheritance land rights, it is mandatory to attach additional documents according to Article 111 of Regulation of the Ministry of Agrarian and Spatial Planning/National Land Agency Number 16 of 2021. Regarding the certificate unilaterally registered without distribution to other heirs, it is governed by Article 32 paragraph (2) of Government Regulation Number 24 of 1997, where the land certificate remains valid as proof of ownership as long as there is no objection or lawsuit filed within a period of 5 (five) years.*

Keywords: *Inheritance; Land; Registration.*

1. INTRODUCTION

Aims Indonesia is a country that follow to the concept of the Rule of Law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "Indonesia is a State based on the Rule of Law."¹ A Rule of Law country is obligated to uphold the constitution that prioritizes justice for its people. In line with the purpose of law itself, as expressed by Gustav Radbruch, that law aims to create justice, certainty, and benefits for society in all fields.² One of these fields is land or

¹ Editorial Team of Bhuana Ilmu Populer, 2018, Constitution of the Republic of Indonesia 1945, 2nd ed., Jakarta: Bhuana Ilmu Populer, Jakarta, p. 172.

² R. Tony Prayogo, "Application of the Principle of Legal Certainty in Supreme Court Regulation Number 1 of 2011 concerning Material Legal Review and in Constitutional Court Regulation Number 06/PMK/2005 concerning Guidelines for Conducting Constitutional Review of Laws," Journal of Indonesian Legislation, Vol. 13 No. 2, August 2016, p. 192.

agrarian affairs, and the government must create it. This is emphasized in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which asserts that "everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law."³

Especially in the field of agrarian and land affairs, it is closely related to legal protection and certainty. Legal protection and certainty in agrarian law are realized through the registration of land rights, resulting in legal products such as certificates, serving as evidence of ownership of land rights. Land registration, as defined in Article 1 Number (1) of Government Regulation Number 24 of 1997 concerning Land Registration, is a series of activities carried out by the government continuously and systematically. This includes the collection, processing, bookkeeping, presentation, and maintenance of physical and juridical data, in the form of maps and lists, related to land parcels and housing units. It also includes the issuance of certificates as evidence of rights for land parcels that already have established rights, ownership rights for housing units, and specific encumbrances on the land.⁴

The definition of land registration in Government Regulation Number 24 of 1997 above is an improvement on the scope of land registration activities based on Article 19 paragraph (2) of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), which only covers land measurement, mapping, and bookkeeping, registration and transfer of land rights, as well as the issuance of evidence of rights as a strong evidence.⁵ Essentially, land registration comes from the term "*cadastre*," a technical term for a record that indicates the area, value, and ownership of a piece of land.⁶

The registration of land rights is closely related to the transfer of land rights, which are two interconnected aspects. The transfer of land rights itself can be interpreted in two ways: transferred and shifted.⁷ The meaning of the term "transferred" is when someone, based on an agreement or intention stated in an agreement, transfers their land rights, such as in buying and selling, exchanging, and gifting. On the other hand, the meaning of the term "shifted" is when someone, without being based on an agreement or an intention not stated in an agreement, transfers a right to land, such as in inheritance.⁸

³ Editorial Team of Bhuana Ilmu Populer, 2018, Constitution of the Republic of Indonesia 1945, 2nd ed., Jakarta: Bhuana Ilmu Populer, Jakarta, p. 165-166.

⁴ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 1 paragraph (1).

⁵ Amelia, et al., "Registration and Transfer of Land Rights Acquired Through Inheritance," Journal of Legal Analogy, Vol. 5 No. 1, 2023, p. 83.

⁶ Ibid.

⁷ M. Yazid Fathoni, et al., "System of Transfer of Land Rights Before and After the Enforcement of UUPA Reviewed from the Perspective of Abstract and Casual System," Journal of Private Law, Faculty of Law, University of Mataram, Vol. 2 No. 1, February 2022, p. 2.

⁸ District Court Kalabahi, Decision Number 17/Pdt.G/2021/PN.Klb, Theresia Yo Carvallo and Aditya Suharoyo Jo against Enny Angrek, I Gusti Indo Putra Suhartoyo, Camat Teluk Mutiara, and BPN RI (2017), p. 4.

In this study, the focus will be on discussing the implementation of land rights registration and the implementation of the transfer of land rights through inheritance. The transfer of land rights through inheritance has several conditions that differ from the transfer of other land rights. However, the transfer of land rights obtained through inheritance often encounters various issues, especially for communities in remote areas whose land ownership is still based on customary land or uncertified land. Traditional lands that do not yet have certificates must undergo initial registration, as is the case in the Kalabahi region, Teluk Mutiara District, Alor Regency, East Nusa Tenggara, which is the case study in this research.

The case under study in this research has undergone a cassation legal effort at the Supreme Court. Previously, legal efforts were made at the first instance with the Decision of the Kalabahi District Court Number 17/Pdt.G/2021/PN.Klb. Then, an appellate legal effort was made with the Decision of the Kupang High Court Number 178/Pdt/2021/PN.Kpg. Finally, a cassation legal effort was made with the Decision of the Supreme Court Number 4041 K/Pdt/2022.

Briefly, the court decision revealed that a woman named ET unilaterally controlled the land after her husband JEB passed away without dividing the inheritance among his 11 (eleven) children, who should have been the rightful heirs of JEB.⁹ It was also revealed in the decision that the inheritance was the only property owned by the deceased.¹⁰ The children did not receive a share of the inheritance because ET unilaterally registered it with the National Land Agency of Alor Regency in her name.¹¹ It is known that the object had not been registered and did not have a certificate before, so ET immediately registered it with the National Land Agency of Alor Regency.¹² Therefore, Certificate of Right to Use Number 90 was issued based on Measurement Letter Number 1134.¹³ However, this happened before ET became an Indonesian citizen. After ET changed her citizenship to Indonesian, the disputed object, which previously had a Certificate of Right to Use, was changed, and a new Certificate of Ownership Number 739 was issued based on Measurement Letter Number 04 of 1998 in the name of ET.¹⁴

Then, the registered certificate that had been issued in ET's name became the subject of the dispute in this court decision. Essentially, this court decision is about the creation of a Grant Deed that exceeds the absolute rights of the heirs because the object of the gift is the only inheritance. After ET registered the certificate, in 2010, ET made a legal act of donation to one of her children named YSJ.¹⁵ This legal act was carried out in the presence of the Temporary

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ District Court Kalabahi, Decision Number 17/Pdt.G/2021/PN.Klb, Theresia Yo Carvallo and Aditya Suharoyo Jo against Enny Angrek, I Gusti Indo Putra Suhartoyo, Camat Teluk Mutiara, and BPN RI (2017), p. 5.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

PPAT in the disputed object by signing the Grant Deed.¹⁶ This Grant Deed was used as the basis for the transfer of land rights from ET to one of her children who became the recipient of the gift.

However, in April 2018, YSJ passed away, so the gifted object was directly controlled by his wife, namely DEFENDANT I, and his legitimate extramarital child, namely DEFENDANT II.¹⁷ In September 2018, ET also passed away, and the Plaintiffs, who are the two children of ET, wanted to find out about the inheritance object from ET.¹⁸ However, based on the notification from the National Land Agency of Alor Regency, it turned out that in 2010, the disputed object had already been donated to YSJ. Therefore,¹⁹ the Plaintiffs did not accept this because it was considered that their absolute rights still attached to the object. Moreover, until now, the disputed object is controlled by DEFENDANT I and DEFENDANT II without implementing the inheritance process according to applicable law.

Based on the background outlined above, this research will formulate two research problems: first, how is the system of land rights registration activities obtained through inheritance? Then the second research problem, how is the validity of the land rights certificate that has been unilaterally registered, as found in the Supreme Court Decision Number 4041 K/PDT/2022?

Considering the facts above, research will be conducted focusing on discussing the resolution of issues related to certificates unilaterally registered at the local Land Office without the knowledge of other heirs. Therefore, this research will be titled "The Validity of Unilateral Registration of Inheritance Land Transfer Rights (A Case Study of Supreme Court Decision Number 4041 K/PDT/2022)."

2. RESEARCH METHODS

The research method employed is Normative Juridical. Normative Juridical research is directed towards examining a norm through the analysis of the relationship between norms, content analysis, the integration of theories, and legal principles. This research focuses on discussing Agrarian Law and Land Law in Indonesia. Secondary data is utilized, and the data analysis takes the form of analytical descriptive, which involves discussing the provisions of existing laws and regulations and relating them to actual dynamics that occur.

3. RESULT AND DISCUSSION

3.1. Procedures for Registration of Land Rights Obtained Through Inheritance

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

The implementation of land registration activities involves several government agencies and public officials in Indonesia, including the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regional Office of the National Land Agency, and Land Office. The land registration process in Indonesia is divided into two main categories: initial registration and maintenance of land registration data²⁰, as stipulated by Article 11 of Government Regulation Number 24 of 1997 concerning Land Registration. The initial registration of land involves several activities, namely:

- a. Collection and processing of physical data;
- b. Proof of rights and its bookkeeping;
- c. Issuance of certificates;
- d. Presentation of physical and juridical data; and
- e. Storage of general registers and documents.²¹

On the other hand, the maintenance of data involves only two activities:

- a. Registration of the transfer and/or encumbrance of rights; and
- b. Registration of changes in other land registration data.²²

The initial land registration is divided into two categories: systematic land registration and sporadic land registration. Systematic land registration is a simultaneous registration activity that covers all land registration objects that have not been registered in the area or part of the area of a village or urban neighborhood.²³ Sporadic land registration is an activity of registering land for the first time concerning one or several land registrations objects in the area or part of the area of a village or urban neighborhood, either individually or collectively.²⁴

The activity of registering land rights is closely related to the transfer of land rights, and it is indeed interconnected. When a certificate of land rights undergoes a transfer, it must be registered to provide legal certainty, protection, and to maintain administrative order in land registration, ensuring that the data always reflects the current status. The transfer of land rights occurs through legal acts such as buying and selling, exchanging, gifting, incorporation into a company, and other legal acts of transferring rights. One of these methods is through inheritance. Inheritance is the transfer of assets, typically involving land rights, from a deceased person.

According to Article 20 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Ownership Rights are defined as "the strongest and most

²⁰ Harsono, Boedi. *Indonesian Agrarian Law (History of the Formation of the Basic Agrarian Law, Contents, and Implementation)*, Jakarta: Trisakti University, 2013, p. 474.

²¹ The Basic Agrarian Principles, Law Number 5 of 1960, State Gazette No. 104 of 1960, hereinafter referred to as UUPA, Article 20 paragraph (1).

²² Law Regarding Basic Agrarian Principles, Law Number 5 of 1960, State Gazette No. 104 of 1960, hereinafter referred to as UUPA, Article 20 paragraph (2).

²³ Harsono, Boedi. *Indonesian Agrarian Law (History of the Formation of the Basic Agrarian Law, Contents, and Implementation)*, Jakarta: Trisakti University, 2013, p. 475.

²⁴ Ibid.

complete hereditary right that a person can have over land, with regard to the provisions in Article 6.²⁵ The term "hereditary" indicates that this right is absolute and the highest that can be continuously held as long as the land rights holder is alive. When the holder passes away, the right can be continued by their heirs who are authorized according to the provisions of the laws and regulations.²⁶ Therefore, as mentioned earlier, the transfer of land rights is deemed to occur intentionally by law, meaning that upon the death of the land rights holder, the heirs automatically acquire the land rights. This can be obtained through an Heirship Certificate created by the heirs and acknowledged or certified by the competent official, along with other required documents. Subsequently, the Heirship Certificate and other necessary documents are registered at the local Land Office to be recorded in the land book and issue a certificate.

The registration of the transfer of rights due to inheritance is aimed at providing legal protection to the heirs and maintaining the administrative order of land registration activities to always present up-to-date data. The transfer of land rights due to inheritance is specifically regulated in Article 42 of Government Regulation Number 24 of 1997 concerning Land Registration. This article states that the registration of the transfer of land rights due to inheritance must be submitted by the respective right recipients, whether only one person or more than one person, with documents indicating that they are heirs, such as Death Certificates and Heirship Certificates or Deed of Inheritance in the form of authentic deeds.²⁷ If the object of the transfer of land rights due to inheritance does not yet have a certificate, it must be accompanied by a Land Control Certificate and a Statement of Non-Certification, in accordance with Article 39 paragraph (1) letter b of Government Regulation Number 24 of 1997 concerning Land Registration.²⁸ However, if there is no Inheritance Division Deed, certification can be done for joint ownership, in accordance with Article 51 of Government Regulation Number 24 of 1997 concerning Land Registration, by attaching the Deed of Joint Rights Division (APHB) made in the presence of a Land Deed Official (PPAT).²⁹

The requirements related to the registration of the transfer of land rights due to inheritance are further regulated in the implementation provisions, specifically in Article 111 of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 16 of 2021 concerning the Third Amendment to the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 3 of

²⁵ The Basic Agrarian Principles, Law Number 5 of 1960, State Gazette No. 104 of 1960, hereinafter referred to as UUPA, Article 20 paragraph (1).

²⁶ Azis, Abdul, et al. "Land Rights Registration due to Inheritance." *Journal of Legal Studies and Education* 1, No. 3 (2021): 18-27.

²⁷ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 42 paragraph (1), paragraph (3), paragraph (4).

²⁸ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 42 paragraph (2).

²⁹ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 42 paragraph (5).

1997 concerning the Implementation Provisions of Government Regulation Number 24 of 1997. This article elaborates on the document requirements that must be fulfilled in the implementation of the registration of the transfer of land rights due to inheritance. The required documents include:

1. Certificate of land rights or Ownership Rights Over Condominium Units or other proof of ownership that mentions the name of the Heir;
2. Death Certificate or Deed of Death from the competent authority;
3. Proof of being an heir, which can be in the form of a will, court decision, judge's determination, Heirship Certificate issued by the Village Chief and Subdistrict Head, Notary, or Inheritance Office;
4. If the registration application is not submitted by the right recipient, it must be accompanied by a Written Power of Attorney;
5. Identification proof of the parties involved.³⁰

In this article, there are several other notes, especially in paragraphs (2) to (6). In paragraph (2), it is stated that if, during the implementation of the registration of the transfer of land rights due to inheritance, there is already a court decision/judicial determination/other inheritance division deed that has been registered, it must be attached.³¹ The Inheritance Division Deed can be an underhand deed attended by two witnesses or an authentic deed made by a Notary.³² In paragraphs (4) and (5), it is mentioned that if there is more than one right recipient. If there is more than one right recipient but no previous inheritance division has been carried out, the transfer of the right becomes joint ownership among all heirs with a joint distribution of rights according to the laws and regulations.³³ However, if there is more than one right recipient, and the inheritance deed states that the registration of the transfer of land rights will be done to one person, the recording of the right is only made to the right recipient according to the inheritance deed.³⁴

Referring to Article 111 paragraph (4) above, the heirs are required to attach a deed

³⁰ Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Regarding the Third Amendment to the Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Ministerial Regulation ATR/BPN Number 16 of 2021, Article 111 paragraph (1).

³¹ Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Regarding the Third Amendment to the Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Ministerial Regulation ATR/BPN Number 16 of 2021, Article 111 paragraph (2).

³² Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Regarding the Third Amendment to the Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Ministerial Regulation ATR/BPN Number 16 of 2021, Article 111 paragraph (3).

³³ Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Regarding the Third Amendment to the Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Ministerial Regulation ATR/BPN Number 16 of 2021, Article 111 paragraph (4).

³⁴ Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Regarding the Third Amendment to the Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration, Ministerial Regulation ATR/BPN Number 16 of 2021, Article 111 paragraph (5).

made by a Land Deed Official (PPAT), namely the Deed of Joint Rights Division (APHB). The creation of the Deed of Joint Rights Division (APHB) is usually carried out when the deceased leaves more than one heir, and the heirs agree to joint certification with joint ownership. According to Article 51 of Government Regulation Number 24 of 1997, it is stated that "the division of joint ownership of land or ownership of condominium units becomes the individual rights of each joint rights holder registered based on a deed made by a competent PPAT according to applicable regulations proving the agreement between joint rights holders regarding the division of joint ownership."³⁵ After being registered as joint property, the division of rights is carried out based on the provisions of joint ownership obtained from the inheritance. Therefore, it does not negate the ownership rights of other heirs to the inherited property, so if there is a legal action in the future regarding the land rights, all heirs remain authorized to carry out that legal action as well.

From the conditions and regulations stipulated in the legislation, as explained above, there is a discrepancy in Supreme Court Decision Number 4041 K/PDT/2022. In this case, ET never distributed the inheritance to her 11 children. After JEB, ET's husband, passed away, ET immediately registered the land with the local National Land Agency, and a Right to Use certificate was issued in ET's name. This certificate remained as a Right to Use because ET was not yet an Indonesian citizen at that time. However, on April 22nd, 1996, ET took an oath to become an Indonesian citizen, and the National Land Agency issued a Land Ownership certificate in ET's name.

In this case, there is no mention of an inheritance division from JEB to ET and their 11 children. The registration process only indicated a transfer of the property to ET. In essence, the property is the sole inheritance that should have been divided according to the inheritance process among ET and her children. If ET wishes to proceed with the division, she must personally go through the land certificate registration process, attaching several documents as outlined in Article 111 paragraph (1) of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 16 of 2021. These documents include:

1. Death Certificate or JEB's Death Act.
2. Legal Heir Certificate that can be made in the form of a Notarial Deed, as JEB and the family are of Chinese descent.
3. Proof of identity for JEB, ET, and the 11 children, such as ID cards, tax identification numbers, family cards, and birth certificates.

Additionally, since the land certificate had not been issued at that time, ownership of the land can be reaffirmed with documents outlined in Article 39 paragraph (1) letter b, namely, a Land Possession Certificate and a Statement of Non-Certification.

If there is a desire to proceed with joint certification, an Act of Joint Rights Division can be created at the local PPAT, following the provisions of Article 51 of Government Regulation Number 24 of 1997 regarding Land Registration. With these measures, the

³⁵ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 51 paragraph (1).

inheritance rights of JEB and ET's children would not be violated, and the 11 children can still make decisions regarding the property in case of future legal actions, as their rights are outlined in the Act of Joint Rights Division.

3.2. The Validity of the Certificate of Title to Land That Has Been Obtained Registered Unilaterally Contained in Supreme Court Decision Number 4041 K/PDT/2022

Essentially, as revealed in National Land Law, the issuance of land certificates aims to provide strong and valid evidence, ensuring legal certainty and protection for the community. Therefore, certificates registered and issued by the National Land Agency have strong evidential power as long as they meet the specified requirements.

Article 32 paragraph (2) of Government Regulation Number 24 of 1997 regarding Land Registration stipulates that if a land parcel for which a certificate has been issued is obtained in good faith and is genuinely possessed, any other party claiming rights to the land has a period of 5 (five) years from the issuance of the certificate to submit a written letter to the concerned party or the local Land Office or file a lawsuit with the local court.³⁶

Referring to this article, it can be said that a land certificate can have strong evidential power if obtained in good faith, and the parties have genuinely possessed the land. Good faith can be viewed from two perspectives: subjectively and objectively. Subjectively, good faith is assessed based on an individual's behavior in carrying out legal acts, determining whether the legal act is motivated by a particular interest or is conducted honestly and sincerely to ensure that the legal act proceeds as intended. It can be concluded that subjective good faith is assessed from within the subject performing the legal act. Objectively, it is assessed based on the legal act itself, determining whether its execution complies with the norms or laws in the community. It can be concluded that objective good faith is assessed from the perspective of the object of the legal act, verifying whether the agreement from the legal act complies with existing norms and laws.

In the case presented in Supreme Court Decision Number 4041 K/PDT/2022, the land rights object has existed since 1930, initially under the possession of JSS (JEB's father) and TSM (JEB's mother). In 1953, a house was built on the land by JEB, serving as the residence for JEB, ET, and their 11 children. Referring to the provisions of laws and regulations, JEB, ET, and their 11 children have possessed the land for more than 20 years with good faith, openly, and without any dispute from the community. Therefore, in accordance with Article 24 paragraph (2) of Government Regulation Number 24 of 1997, it can be stated that JEB, ET, and their 11 children have the right to declare

³⁶ Government Regulation Regarding Land Registration, Government Regulation Number 24 of 1997, State Gazette No. 59 of 1997, Supplement to the State Gazette No. 3696, Article 51 paragraph (2).

proof of ownership to the local Land Office and are entitled to register their land rights. However, JEB did not take such action until his passing on April 3rd, 1984, leaving ET and their 11 children as the occupants of the land. After JEB's passing, ET and their 11 children did not undergo the transfer of inheritance rights for the land, which remained their sole inheritance. Consequently, the ownership was based solely on their actual physical possession of the land. In 1996, the Right to Use Certificate Number 90 was issued in ET's name before they became an Indonesian citizen. In 1996, ET, who was not an Indonesian citizen, changed their name and was sworn in as an Indonesian citizen at the Kalabahi District Court. Following this event, in 1998, Certificate of Ownership Number 739 was issued in ET's name. If we observe the situation before, the land in question was the sole inheritance from JEB to ET and their 11 children. Although the land was not previously registered based on actual physical possession, the absolute inheritance rights of their 11 children were inherent to the land. Therefore, the issuance of Certificate of Ownership Number 739 in ET's name can be considered a violation of the absolute rights of inheritance held by their 11 children.

Referring to Article 32 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration, which regulates the issuance of certificates, it can be said that the issuance of the Certificate of Ownership is still valid evidence because within a period of 5 (five) years, no other party has contested the issuance of the Certificate of Ownership. However, essentially, if one wishes to issue a certificate in the name of only one person without violating the absolute rights of other heirs, it should be done by registering the land rights based on a Certificate of Inheritance, stating that the land will be transferred to only one person. This is in accordance with Article 111 paragraph (5) of the Regulation of the Minister of Agrarian Affairs/National Land Agency Number 16 of 2021. Additionally, if there is no intention to transfer the name to only one person, the registration of land rights through inheritance can be carried out based on a Deed of Joint Ownership Division made before a PPAT (Land Deed Official), as stipulated in Article 111 paragraph (4) of the Regulation of the Minister of Agrarian Affairs/National Land Agency Number 16 of 2021. In this case, the deed serves as the basis for declaring that the land rights object is jointly owned, allowing the transfer of the land title to one or more heirs.

If we look at the case in this verdict, the issuance of the certificate in ET's name is not a joint right or mutual agreement to transfer the land title to ET. This is because there are no accompanying documents such as the Deed of Joint Ownership Division or Certificate of Inheritance from the concerned party. However, this is a unilateral issuance of the certificate by ET to acquire full ownership of the land. Therefore, the dispute in this case arises because ET already claimed sole ownership of the land, and then ET donated it to one of her children, YSJ, without the knowledge of the other children who should have absolute rights to the land. Until April 2018, YSJ passed away, and the property was immediately taken over by the DEFENDANT I and DEFENDANT II without undergoing the inheritance process from YSJ to DEFENDANT I and DEFENDANT II. In June 2018, ET passed away, and the PLAINTIFF I and

PLAINTIFF II felt that ET still had an inheritance, namely the land with Certificate of Ownership Number 739. However, it turned out that the property had already been donated and is now controlled by DEFENDANT I and DEFENDANT II, who are not descendants of ET. But, as it is considered donated to her husband, YSJ, DEFENDANT I and DEFENDANT II believe that the property is part of their inheritance.

This situation made the PLAINTIFFS feel that their absolute inheritance rights were violated by DEFENDANT I and DEFENDANT II. Therefore, they filed a lawsuit with the Kalabahi District Court under Decision Number 17/Pdt.G/2021/PN.Klb, where the court ruled that the absolute rights of the PLAINTIFFS had been violated by DEFENDANT I and DEFENDANT II. The DEFENDANTS appealed and filed a cassation, but the decision remained valid, stating that DEFENDANT I and DEFENDANT II had violated the absolute inheritance rights of the PLAINTIFFS.

Essentially, the donation from ET to YSJ could have been avoided if Certificate of Ownership Number 739 had been issued based on the correct inheritance process by ET and her 11 children. If the proper inheritance process had been followed, the land would not have been unilaterally controlled by ET but owned or even distributed among other heirs. However, since the land registration process in this case did not comply with legal provisions from the beginning, future land title transfer processes could raise new legal issues. This includes the occurrence of a donation exceeding the absolute rights of other heirs, followed by control by parties who are not descendants of the rightful heirs, as the recipient of the donation had already passed away. Nevertheless, regarding the validity of the land certificate, it ultimately comes back to Article 32 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration mentioned earlier. This article states that a registered land certificate remains valid evidence, asserting that the name listed on the certificate has full rights to the land, as long as no other party disputes it within a period of 5 (five) years.

4. CONCLUSION

The land registration system for land acquired through inheritance is regulated in Article 42, in conjunction with Article 39 paragraph (1) letter b, in conjunction with Article 51 of Government Regulation Number 24 of 1997. It is stated that the process of registering a land certificate acquired through inheritance must be accompanied by other supporting documents, namely the Land Title Certificate or Ownership Certificate for Condominiums or other proof of ownership that bears the name of the deceased, the Death Certificate or Death Deed from the competent authority, proof or certificate as an heir, which can be in the form of a will, court decision, judge's ruling, Heir Certificate made by the Village Head and Subdistrict Head or Notary or Inheritance Office, Written Power of Attorney if the registration application is not submitted by the rights holder, and proof of identity from the parties involved who want to carry out the land title transfer process due to inheritance. However, if there is no land certificate or ownership certificate for the object to be registered, a Land Possession Certificate and

a Statement of Non-Certification can be added. Then, if the object is to be registered with joint ownership, a Deed of Joint Ownership made before the Land Deed Official (PPAT) must be included. These matters are also regulated in the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 16 of 2021. For land certificates that have been unilaterally registered by one heir, as happened in Supreme Court Decision Number 4041 K/PDT/2022, it still has validity as valid evidence or legitimate proof. Because in Article 32 paragraph (2) of Government Regulation Number 24 of 1997, it is stated that a registered land certificate remains valid evidence and asserts that the name listed on the certificate has full rights to the land, as long as no other party disputes it within a period of 5 (five) years. Therefore, because there was no lawsuit filed against the certificate issuance process by ET within a period of 5 (five) years by other heirs, ET still has full rights to the land. However, this could lead to new legal issues in the future, which can be initiated by ET because she already has full control over the land. When other legal actions are taken in the future, they can be done unilaterally by ET without the need for joint action with other heirs because ownership of the land is not joint ownership.

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