

Legal Certainty in the Implementation of Grant Land Deed to Grandchildren (Study of Decision Number: 357/PDT/2023/PT BDG.)

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Abstract. Land is a natural resource that is important for human life, both as a place to live and as a source of economic welfare. In Indonesia, the strategic role of land is regulated in Article 33 paragraph (3) of the 1945 Constitution which emphasizes that natural resources are controlled by the state for the prosperity of the people. However, not all individuals, such as minors, are considered capable of carrying out legal acts related to land ownership. Grants, as one way of transferring land ownership, are regulated in Article 1666 of the Civil Code, which states that grants are free gifts made while the grantor is still alive and must go through a notarial deed. This study examines a land grant dispute case in Cirebon Regency, where land was granted to a minor but was later sued by his grandmother who claimed ownership of the land with evidence of a receipt. This study raises two problem formulations: (1) the considerations of the Panel of Judges in deciding on the grant of a land deed to a grandchild, and (2) legal provisions related to the status of minors as recipients of grants. The research method uses a normative legal approach with secondary data analysis involving primary, secondary, and tertiary legal materials. The results of the study indicate that the decision of the Bandung High Court to annul the decision of the Sumber District Court was correct, upholding legal certainty and justice. In addition, minors do not have full legal capacity to receive land grants directly, so they require the consent of a legal guardian or parent. This regulation aims to protect children's rights and ensure that land management is carried out properly in accordance with applicable legal principles.

Keywords: Certainty; Grants; Land; Minors.

1. Introduction

Land is a natural resource that is very important for humans to meet their needs, both directly in activities such as gardening and as a place to live.¹The role of land

¹ Elza Syarif, Resolving Land Disputes Through the Special Land Court (Kepustakaan Populer Gramedia, 2014).

in human life has great significance, because land is a source of well-being, prosperity, and life. As a crucial factor for survival, the importance of land cannot be ignored, especially in Indonesia which has an agrarian character and a vast territory.²

In the context of the Republic of Indonesia, land has a strategic role as an integral part of the main natural resources. In addition to having a deep spiritual value for the Indonesian people, land also has a vital role in meeting the increasing needs of the state and society, both at the national and international levels.³ Land is not only a determining factor in economic welfare, but also the basis of social life which is closely related to the sustainability of the nation.⁴

The relationship between land and humans is not only based on physical needs, but also significant economic value.⁵ According to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. This emphasizes the importance of clear and firm legal regulations regarding land ownership in Indonesia, including mechanisms for transferring land rights such as grants.⁶

Grants, as a form of transfer of land rights, are regulated in Article 1666 of the Civil Code which states that a grant is an agreement in which the grantor, during his lifetime, freely and irrevocably, hands over something for the needs of the grantee. In its implementation, land grants must be made using an authentic deed made by a Land Deed Making Officer (PPAT). However, not everyone is considered legally competent to carry out legal acts related to grants, especially minors.⁷

Children, as legal subjects who are not yet adults, are considered not to have full legal capacity to receive grants directly. Based on Article 330 of the Civil Code, children who have not reached the age of 21 and are not yet married are

² Bambang Eko Muljono, 'Implementation of Transfer of Land Rights Based on Sale and Purchase Agreement and Power of Attorney to Sell Made by a Notary', *Jurnal Independent*, 1.2 (2013), 59–70.

³ Ilhamdi Ilhamdi, 'Legal Review of Corporate Land Rights in Industrial Areas in Indonesia', *DE LEGA LATA: Journal of Legal Studies*, 1.2 (2016), 329–48.

⁴ K Anam, S Suhartono, and H Hufron, 'Legality of Transfer of Rights to Inherited Land', *Jurnal Akrab Juara*, 4.5 (2019), 235–47.

⁵ Shenti Agustini and Bona Hidayat, 'Implementation of Grant Implementation in Transfer of Land Rights for Children and People Under Guardianship in Batam, Indonesia', *Undiksha Citizenship Education Journal*, 9.1 (2021), 107–15.

⁶ Ayu Indirakirana, Komang Febrinayanti Dantes, and Muhamad Jodi Setianto, 'Implementation of Guardianship of Minors in the Implementation of Transfer of Land Ownership Rights Due to Sale and Purchase in Singaraja City', *Jurnal Komunitas Yustisia*, 5.2 (2022), 414–30.

⁷ Vitra Hana Sharfina and Satria Sukananda, 'Legal Protection of Civil Rights for People Under Guardianship (Case Study of Decree Number 0020/PDT. P/2015/PA. BTL)', *Justitia Jurnal Hukum*, 3.2 (2019).

considered not legally competent. Therefore, in the case of land grants to minors, a legal guardian or parent is required to represent the interests of the child.⁸

Problems related to land grants often cause disputes, especially when heirs or other parties feel disadvantaged by the grant process. One case of a land grant dispute occurred in Cirebon Regency, where land was granted to a minor grandson, but was later sued by his grandmother who claimed ownership of the land with evidence of a receipt. This case is interesting to study further because it concerns the validity of the land grant and the status of the minor as the recipient of the grant.

Based on the description above, this study aims to analyze the considerations of the Panel of Judges in deciding land grant disputes to grandchildren, as well as to examine the applicable legal provisions regarding the status of minors as grant recipients.

2. Research Methods

The research method used in this study refers to Sugiyono's view, which states that scientific research must be rational, empirical, and systematic. This means that the research process must be carried out with logical reasoning, can be observed by human senses, and follows orderly and logical steps.⁹This type of research is library legal research that focuses on secondary data.¹⁰According to Soerjono Soekanto, normative legal research includes studies on legal principles, legal systematics, legal synchronization, and comparative law.¹¹

The approach used is normative juridical or doctrinal method¹², which aims to analyze the grant of land deeds to children sued by guardians, with a case study of court decisions.¹³ The type of data used is qualitative data, with data sources in the form of primary legal materials such as the 1945 Constitution, the 1960 UUPA, the Civil Code, HIR, Rbg, the Marriage Law, KHI, and court decisions.¹⁴

In addition, secondary legal materials include textbooks, legal journals, and expert comments, and tertiary legal materials such as dictionaries, encyclopedias, and

⁸ Etik Rahmawati and Widyarini Indriasti Wardani, 'TRANSFER OF LAND RIGHTS TO MINORS', Notary Law Research, 2.2 (2021), 77–92.

⁹ Sugiyono, *Mixed Methods Research Methods*, Bandung: Alfabeta, 2013.

¹⁰ Candraditya Indrabajra Aziiz, AA Gede Ngurah Dirksen, and Ida Bagus Putra Atmadja, 'Implications of Constitutional Court Decision Number 46/Puu-Viii/2010 Concerning the Position of Children Born Outside of Marriage to the Compilation of Islamic Law', *Kertha Semaya: Journal of Legal Studies*, 2013.

¹¹ Soerjono Soekanto, Sri Mahmudji, *Normative Legal Research: A Brief Review*, Jakarta: Raja Grafindo Persada, 2007.

¹² Aprilina Pawestri and Ida Wahyuliana, 'Moral Approach as an Effort to Protect Children's Rights from the Impact of Technological Developments', *Indonesian Law Symposium*, 1.1 (2019), 437–49.

¹³ Jhony Ibrahim, 'Methods & Science of Normative Legal Research', *Bayu Media*, Brawijaya University, Malang, 2005.

¹⁴ A Muri Yusuf, *Quantitative, Qualitative & Combined Research Methods* (Prenada Media, 2016).

legal indexes. Data collection is carried out through literature studies, which include examining books, laws and regulations, and related journals. The data obtained are then analyzed qualitatively with a normative legal approach to find legal solutions and answer existing problems.¹⁵

3. Results and Discussion

Legal Theory

Lon Fuller's Theory of Legal Utilitarianism emphasizes that laws must meet eight principles to be considered valid, namely: not based on misguided decisions, announced to the public, not retroactive, formulated in language that is generally understood, not contradictory, not requiring impossible actions, not frequently changed, and must have a match between regulations and daily implementation. Fuller's focus is on clarity, consistency, and the application of law in daily practice.¹⁶

Gustav Radbruch's Theory of Legal Certainty asserts that law must be applied clearly and stably in order to be understood and followed consistently. Radbruch identified the problem of law that is too rigid or frequently changing can create uncertainty, and he emphasized the need for a balance between legal certainty and justice. The phrases "Lex duras sed tamen scripta" and "summum ius, summa iniura" illustrate the paradox between legal certainty and justice.¹⁷

John Rawls's Theory of Justice aims to provide general principles of justice for moral decisions and develop a theory of social justice that is superior to utilitarianism. Rawls' principles include equal rights and opportunities for basic liberties for every individual and the restructuring of socioeconomic inequalities to provide mutual benefits for all individuals. Rawls's focus is on the structure of society and the distribution of rights and obligations for social welfare. All of these theories contribute to a deeper understanding of justice, legal certainty, and the utility of law in legal systems.¹⁸

Panel of Judges' Considerations in Deciding on Land Deed Grant to Grandchildren

a. Panel of Judges' Considerations

In Exception

¹⁵ Agung Hidayat, 'Critical Review of Peter Mahmud Marzuki's Book "Legal Research" Ad Quem Legal Research on Norms', YUSTISIA MERDEKA: Scientific Journal of Law, 7.2 (2021), 117–25.

¹⁶ Indah Maharani, 'The Role of Notaries in Making Legal Deeds in Accordance with the Notary Law Based on the Theory of Benefit', Indonesian Multidisciplinary Journal, 1.3 (2022), 962–69.

¹⁷ Mario Julyano and Aditya Yuli Sulistyawan, 'Understanding the Principle of Legal Certainty Through the Construction of Legal Positivism Reasoning', Crepido, 1.1 (2019), 13–22.

¹⁸ Pan Mohamad Faiz, 'John Rawls' Theory of Justice', Constitutional Journal, 6.1 (2009), 135–49.

Considering, that regarding the exception, the High Court agrees with the first instance court which rejected the Defendant's exception in its entirety, because it was appropriate and correct, and therefore it is maintained;

Main Points

Considering, that apart from the exceptions filed by the Defendant, the High Court by considering the subject of the lawsuit and also the posita of the Plaintiff's lawsuit there are several things that are of concern that are not in sync with each other, namely: The Plaintiff in the argument of his lawsuit stated that on the object of the lawsuit, namely land plot No. 58, Rukun Gede, Kohir No. 0046 with an area of 210 m², three legal events occurred, each as follows: - 1. Purchased by the Plaintiff from Defendant III dated June 10, 2003 (as evidence of receipt evidence P-2); - 2. Then with the Deed of Sale and Purchase Number 06/2005, the same object was resold by Co-Defendant III to WIDIAWATI (Defendant's Wife) (exhibit T-9); - 3. Furthermore, the same object became the object of a grant in the Deed of Grant evidence P-9), between the Defendant and his child as the grantor with the Plaintiff representing 2 children of Widiawati/Defendant as the recipient of the grant;

Considering, that from the legal event as argued by the Plaintiff/Appellee shows an inconsistent and unclear claim argument, namely if the Plaintiff wants to sue so that the object of the lawsuit land is declared as his property based on the purchase on June 10, 2003, then because the object of the case originated from the purchase from Co-Defendant III, it is further argued that Co-Defendant III has resold the land to Widiyawati/Defendant's wife in 2005, meaning that one object has been sold by Co-Defendant III twice, namely first to the Plaintiff and second to Widiyawati, so that this lawsuit is clear and complete, it should include Co-Defendant III as a Defendant, not positioned as Co-Defendant III so that it can be determined who has the right to the land object of this case, therefore by not being sued Co-Defendant III as the seller party becoming the Defendant in the aquo case, the proof of the sale and purchase of the land in question becomes unclear, so this lawsuit becomes unclear or vague;

Considering, that then according to evidence P-9 in the form of a Deed of Grant, it turns out that the Plaintiff together with two of his grandchildren, namely the children of Widiawaty (deceased), acted as recipients of the grant whose object is the same as the object of the lawsuit, in this case if the Plaintiff is consistent with his lawsuit as the owner of the land in question, then it is illogical or unreasonable for the Plaintiff to be the recipient of the grant in the same object, thus from the facts above it shows that the Plaintiff's lawsuit is unclear or vague, so this lawsuit must be declared unclear or vague therefore the lawsuit is declared acceptable (niet ontvankelijk verklaard);

Considering, that because the lawsuit was declared inadmissible, the Plaintiff/Appellee is ordered to pay court costs at two levels of court which will be determined in this decision;

Considering, that based on the above considerations, the Bandung High Court is of the opinion that the decision of the Sumber District Court Number: 56/Pdt.G/2022/PN Sbr., dated April 11, 2023 cannot be upheld and must be canceled, then the High Court will adjudicate itself as in the ruling of this decision;

In Recommendation:

Considering, that based on the considerations of the first instance court regarding the counterclaim which rejected the counterclaim in its entirety, it was correct and proper, therefore the High Court took over the considerations of the first instance court and made them into considerations at the appellate court, therefore the decision on the counterclaim is maintained;

Taking into account Law Number 20 of 1947 concerning Repeat Trials in Java and Madura, HIR. Law Number 2 of 1986 concerning General Courts which has been amended several times and the latest amendment with Law Number 49 of 2009 and other relevant laws and regulations;

To judge

TO JUDGE:

- *Accepting the appeal from the original Appellant, the Defendant;*
- *Canceling the decision of the Sumber District Court, Number: 56/ Pdt.G / 2022 / PN Sbr., dated April 11, 2023, which was appealed;*

b. Results of the Panel of Judges' Analysis (Decision Number: 357/PDT/2023/PT BDG.)

In Exception

The High Court rejected the Defendant's objection, affirming that the decision of the first instance Court was correct and relevant. To analyze the decision, we can use three legal theories:

1) Theory of Legal Utility (Lon Fuller)

Fuller put forward eight principles of law, including clarity, consistency, and stability. By rejecting the exception, the High Court ensures that the law is applied clearly and consistently. This shows that the decision has met the principle of legal benefit because the rules applied are understandable, not contradictory, and stable.

2) Theory of Legal Certainty (Gustav Radbruch)

Legal certainty emphasizes the clear and stable application of the law. The decision of the High Court rejecting the exception shows the consistency and stability of

the law, and maintains order and justice. This confirms that the legal system does not change arbitrarily, but is based on clear legal principles.

3) Theory of Justice (John Rawls)

Rawls emphasizes social justice through the fair distribution of rights and obligations. By rejecting the Defendant's objection, the High Court maintains that the rights and obligations of the parties in this case are distributed fairly. This shows that the decision is based on the principle of social justice, without ignoring the rights of other parties.

The High Court's decision combines the principles of legal expediency, legal certainty and justice, ensuring that the law is applied properly and fairly.

In the Matter of Matter

This land dispute case involves conflicting legal events, such as the purchase, sale, and grant of land, which creates confusion regarding ownership rights. Analysis using legal theory shows that:

1) Theory of Legal Utility (Lon Fuller)

This case does not meet Fuller's principle of legal expediency due to inconsistency and ambiguity of the law. Conflicting transactions indicate inconsistent legal decisions and lack of transparency, causing uncertainty and unfairness.

2) Theory of Legal Certainty (Gustav Radbruch)

This case reflects the instability of the law due to the ambiguity of land ownership rights. There is no adequate legal certainty, and the inability to determine ownership stably indicates problems in maintaining legal certainty and adaptability.

3) Theory of Justice (John Rawls)

This case shows the injustice in the distribution of land rights. The ambiguity and injustice in the distribution of rights contradict Rawls' principle of social justice, which emphasizes the importance of fair and transparent distribution of rights.

Overall, the lawsuit faces serious problems in terms of clarity, legal certainty, and justice. The High Court's decision to dismiss the lawsuit is the right step to ensure legal certainty and justice.

In Rekompensi

Court decisions regarding counterclaims rejected by the first instance court and upheld by the High Court can be examined based on the following legal theories:

Based on Lon Fuller's Theory of Legal Utilization, decisions must be based on in-depth legal considerations, reflecting the application of consistent and non-

arbitrary legal principles. Decisions must be announced transparently so that all parties understand their legal status, and must not be retroactive so that previously existing rights are maintained. In addition, decisions must be formulated in clear and easy-to-understand language, without creating conflicting regulations, and not demanding obligations that exceed the capabilities of the parties concerned. The law must also be stable, avoiding too frequent changes, and decisions must be in line with everyday legal practice. Gustav Radbruch's Theory of Legal Certainty emphasizes that court decisions must provide clear and stable legal certainty without changing the existing legal status, while still being able to adapt to new situations if necessary. John Rawls' Theory of Justice focuses on the fair distribution of rights, ensuring that the rights of the parties concerned are not violated unfairly and reflecting efforts to maintain social justice.

In conclusion, the court's decision to uphold the rejection of the counterclaim demonstrates a clear, consistent application of the law, and in accordance with Fuller's principles of legal expediency, Radbruch's stability and certainty of law, and Rawls's social justice. The Bandung High Court's decision to overturn the District Court's decision and accept the appeal reflects a reassessment of the ambiguity and inconsistency in the claim, emphasizing the need for clearer and more consistent decisions.

3.2. Legal Provisions for Minors as Grant Recipients for Land Deeds

Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) is the main legal basis governing land rights and transfers in Indonesia. Its principles ensure that any transfer of land rights is carried out in accordance with the law and legitimate procedures.

Article 16 UUPA:

“(1) Land rights as intended in article 4 paragraph (1) are: a. property rights, b. business use rights, c. building use rights, d. use rights, e. rental rights, f. right to open land, g. right to collect forest products, h. other rights which are not included in the rights mentioned above which will be determined by law as well as temporary rights as mentioned in article 53. (2) Rights to water and space as intended in article 4 paragraphs (3) are: a. water-use rights, b. fishing and fishing rights, c. space use rights”.

In Indonesia, land rights and rights related to water and space are regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). Article 4 of the UUPA identifies the various land rights recognized by Indonesian law. Ownership rights are the most comprehensive and hereditary rights, giving the owner the authority to control, use, and trade land without time limits. This right includes the right to sell, rent, or grant land rights to other parties and to make changes or developments on the land. Cultivation rights (HGU) are the rights to cultivate land

controlled by the state for a certain period of time for the purposes of agriculture, plantations, or forestry, valid for up to 35 years and can be extended. Building rights (HGB) provide the right to construct and own buildings on someone else's land, valid for 30 years with the possibility of a 20-year extension, but only cover building rights, not the land. The right to use is the right to use and utilize land controlled by the state or owned by others for certain purposes, both private and public, and is granted for a certain period of time. The right to lease allows the use of land or buildings owned by others by paying rent, without granting ownership rights. The right to open land provides the right to open and cultivate forest land or state land for agriculture. The right to collect forest products is the right to utilize forest products controlled by the state, such as wood or other forest products. Other rights not included in the above categories are rights that may be regulated in special laws.

Article 4 paragraph (3) of the UUPA also regulates the rights to water and space. The right to use water provides the authority to use and utilize water from its source for personal, agricultural, or industrial purposes, including the management and utilization of water in accordance with the law. The right to maintain and capture fish is the right to utilize fish resources in waters controlled by the state or the public, including fishing activities. The right to use space includes the use of space for communication, navigation, and exploration, such as the use of satellites for public or commercial purposes.

Then it is also regulated in Article 1666 of the Civil Code which reads:

“A gift is an agreement by which a donor hands over an item free of charge, without being able to withdraw it, for the benefit of a person who receives the gift of the item. The law only recognizes gifts between living persons.”

Referring to Article 1666 of the Civil Code, a gift is defined as an agreement in which a grantor hands over an item free of charge, without the possibility of withdrawing the item, for the benefit of the grantee. The explanation of this article shows that a gift requires the agreement of both parties—the grantor and the grantee—which must be done with free will and without coercion. The item being gifted must be an object of legal ownership and can be legally transferred, either in the form of movable objects such as jewelry or immovable objects such as land, provided that the item already exists at the time the gift is made. A gift is made without financial compensation, confirming that there is no compensation received by the grantor in return. Once the item is donated, the grantor has no right to withdraw the item, making it final and permanent. The purpose of a gift is to provide benefits or advantages to the grantee in accordance with the grantor's intentions. In addition, a gift is only valid if it is made between living people, so that a gift by a deceased person is not recognized by law.

Article 1667 of the Civil Code reads:

“Grants may only be made for goods that already exist at the time the gift is made. If the gift includes goods that do not yet exist, then the gift is void just as far as the goods that do not yet exist.”

Referring to Article 1667 of the Civil Code which states that:

a) Donations can only be made to goods that already exist and are real at the time the donation is made. In other words, the goods donated must be objects of property rights that already exist physically or in the form of legal rights at the time the donation takes place. This provision aims to ensure legal certainty, because existing goods can be transferred legally and clearly, so as to avoid disputes related to ownership or control of goods that are not real.

b) If the gift includes goods that do not yet exist at the time the gift is made, then the gift is considered void or invalid for goods that do not yet exist. This means that the gift has no legal force for goods that do not yet exist at the time the gift is made. Although gifts for goods that already exist remain valid and valid, gifts for goods that do not yet exist are considered never to have occurred and have no legal effect.

c) Although a gift for goods that do not yet exist is void, a gift for goods that already exist at the time the gift is made remains valid and effective. This allows the transfer of rights to goods that already exist legally, even though a gift for goods that do not yet exist is not legally accepted.

This is further explained in the Republic of Indonesia Law Number 1 of 1974 concerning Marriage, namely:

Article 47 of the Law:

“(1) Children who have not reached the age of 18 (eighteen) years or have never been married are under the authority of their parents as long as they are not removed from their authority. (2) Parents represent the child regarding all legal acts inside and outside the court.”

Parental authority over children who are under 18 years of age or who have never been married. Children who are under 18 years of age or who are unmarried are under the authority of their parents, which means that parents have legal responsibility and authority over the child in various aspects of life, including legal and administrative decisions. This authority can be revoked only under certain conditions stipulated by law, so that if this authority is revoked, the role of parents in managing the child's legal interests becomes invalid. In addition, parents act as legal representatives for children in all legal acts, both in court and out of court. This includes all legal decisions that need to be taken in the interests of the child, such as signing contracts, filing lawsuits, or carrying out other legal transactions. Parents are also responsible for carrying out legal actions that protect the child's interests and fulfilling legal obligations related to the child's rights and interests.

Article 48 of the Law:

"Parents are not permitted to transfer rights or pawn fixed assets owned by their children who are under 18 (eighteen) years of age or have never been married, unless the interests of the child require it."

Limitations on the rights of parents to transfer rights or mortgage fixed assets owned by children who are under 18 years of age or unmarried. Parents are not allowed to transfer ownership rights or mortgage fixed assets such as land or buildings without a valid reason. Exceptions to this prohibition are only allowed if such action is truly necessary for the benefit of the child, with the benefits must be greater than the risks or losses that may arise. This article aims to protect children's property rights and prevent abuse of power by parents, ensuring that the interests and rights of children are maintained even though they have not reached adulthood or are unmarried.

Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration regulates in detail the procedures for land registration in Indonesia, namely:

Article 7:

"(1) The PPAT as referred to in Article 6 paragraph (2) is appointed and dismissed by the Minister. (2) For villages in remote areas, the Minister may appoint a Temporary PPAT. (3) The regulations for the position of PPAT as referred to in paragraph (1) are regulated by a separate Government Regulation."

The above article regulates the Land Deed Making Officer (PPAT), who is appointed and dismissed by the Minister, indicating that this position is regulated by the central government. The PPAT is tasked with preparing authentic deeds related to land rights, such as sales, purchases, grants, and leases, and ensuring that the documents meet legal requirements. In remote areas, where it may be difficult to obtain a permanent PPAT, the Minister may appoint a Temporary PPAT to ensure that land registration services remain available. Detailed regulations regarding the position of PPAT are regulated in a separate government regulation, which includes the responsibilities and obligations of the PPAT.

Article 8:

"(1) In carrying out systematic land registration, the Head of the Land Office is assisted by an Adjudication Committee formed by the Minister or an appointed Official. (2) The composition of the Adjudication Committee as referred to in paragraph (1) consists of: a. a Chairperson of the Committee, concurrently a member held by an employee of the National Land Agency; b. several members consisting of: 1) an employee of the National Land Agency who has knowledge in the field of land registration; 2) an employee of the National Land Agency who has knowledge in the field of land rights; 3) the Head of the Village/Sub-District"

concerned and/or a Village/Sub-District Official appointed by him. (3) The membership of the Adjudication Committee may be increased by one member who is absolutely necessary in assessing the certainty of legal data regarding land plots in the area of the village/sub-district concerned. (4) In carrying out its duties, the Adjudication Committee is assisted by a measurement and mapping task force, a legal data collection task force and an administrative task force, the duties, composition and activities of which are regulated by the Minister. (5) The duties and authorities of the Chairperson and members of the Adjudication Committee are regulated by the Minister."

The above article regulates the Adjudication Committee which assists the Head of the Land Office in implementing systematic land registration. This committee is formed by the Minister and consists of a Chairperson who is an employee of the National Land Agency (BPN) as well as members from the BPN and the Village/Sub-district Head or appointed officials. The committee can add members if necessary for the assessment of legal data in the village/sub-district. The Adjudication Committee is also assisted by a task force that includes measurement, mapping, legal data collection, and administration, with duties and authorities regulated by the Minister to ensure efficiency and effectiveness.

Article 42:

"(1) For registration of transfer of rights due to inheritance regarding registered land plots and ownership rights to apartment units as required according to the provisions referred to in Article 36, the recipient of the land rights or ownership rights to the apartment units in question as an inheritance must submit to the Land Office, the relevant rights certificate, death certificate of the person whose name is recorded as the holder of the rights and a certificate of proof as an heir. (2) If the land plot that is an inheritance is registered, the documents referred to in Article 39 paragraph (1) letter b must also be submitted. (3) If the recipient of the inheritance is one person, registration of the transfer of said rights is carried out to that person based on a certificate of proof as an heir as referred to in paragraph (1). (4) If the recipient of the inheritance is more than one person and the time the transfer of said rights is registered is accompanied by a deed of inheritance division containing information that the land rights or ownership rights to a particular apartment unit fall to a particular recipient of the inheritance, registration of the transfer of said land rights or ownership rights to the apartment unit is carried out to the recipient of the inheritance in question based on a certificate of proof of heir and the deed of inheritance division. (5) Inheritance in the form of land rights or ownership rights to a condominium unit which according to the deed of inheritance division must be divided jointly between several heirs or at the time of registration there is no deed of inheritance division, the transfer of rights is registered to the heirs who are entitled as joint rights based on a certificate of proof as heirs and/or the deed of inheritance division.

The above article regulates the registration of land rights transfer due to inheritance. Heirs must submit a certificate of title, death certificate of the rights holder, and proof of heirship to the Land Office for registration. For land that has been registered, additional documents are also required to ensure that the registered data is accurate. If there is only one recipient of the inheritance, registration is carried out based on a certificate of proof of heirship. If there are several recipients, registration is carried out based on a certificate of proof of heirship and a deed of division of inheritance containing information regarding land rights. For rights that are divided between several recipients or if there is no deed of division of inheritance, the rights are registered as joint rights.

Overall, PP No. 24 of 1997 aims to provide legal certainty and regulate land administration systematically and effectively, ensuring that land rights are recognized and protected in accordance with applicable laws. The procedure for making a deed of land grant to a minor involves several steps to ensure legality and compliance with the law, namely:

1) Preparation of Documents and Information

Ensure all documents and related information are complete and in accordance with the law. Required documents include the identity of the grantor (KTP and KK), the identity of the guardian, the child's birth certificate, marriage certificate or other document proving the relationship between the grantor and the child, land certificate, and a letter of consent from the guardian. These documents are important to ensure the validity and compliance with legal provisions.

2) Consent from Guardian

Guardian approval is an important step to ensure that the gift is legally valid and protects the child's rights. The legal guardian, usually a parent, is responsible for approving the transaction. This approval must be in the form of a special power of attorney signed before a notary to ensure there is no coercion and that the decision is made in good faith.

3) Preparation of Deed of Gift by PPAT/PPATS

PPAT or PPATS prepares a deed of gift which is official evidence of the transfer of land rights. This deed must include the identity of the related parties, a description of the land, and the terms of the gift. After the deed is prepared, signed by all parties, and witnessed by witnesses, the deed must be checked to ensure the validity and transparency of the gift process.

4) Approval and Registration at BPN

The approved deed of gift must be legalized by the PPAT/PPATS by providing an official stamp and signature. Furthermore, the deed of gift must be registered at the National Land Agency (BPN) along with the land certificate and guardian's

approval document. This registration is important to update land rights data and ensure legal and legally recognized ownership.

4. Conclusion

The Bandung High Court's decision to annul the Sumber District Court's decision and declare the lawsuit inadmissible is the right step. This decision ensures consistent, clear, and fair application of the law, in accordance with Fuller's principles of legal expediency, Radbruch's legal certainty, and Rawls's social justice. In addition, the plaintiff was ordered to pay court costs, affirming the enforcement of the principles of justice and legal certainty in their entirety. Minors do not have full legal capacity to receive land grants directly because they have not reached adulthood and are not considered capable of carrying out legal acts independently. Land grants to children require the consent of a legal guardian or parent to protect the child's interests. The guardian or parent is responsible for managing and supervising land rights until the child reaches adulthood or is considered capable of managing his or her own rights. This regulation aims to protect the interests of children and ensure that land rights management is carried out legally and responsibly, in accordance with applicable legal principles.

5. References

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