

Roles and Responsibilities of Notaries in Distributing Inheritance through Making Inheritance Statements for Chinese Groups in the City of Semarang

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Abstract. *The inheritance statement made by a notary for the Chinese group is very useful in legal activities, especially in managing the heir's inheritance. This writing aims to find out and analyze the role and responsibilities of notaries in distributing inheritance through making inheritance statements for Chinese groups in Semarang City and what are the obstacles and solutions to the role and responsibilities of Notaries in distributing inheritance through making inheritance statements for Chinese groups in Semarang City. The approach method used in this research is a sociological juridical approach, meaning research carried out on the real conditions of society or the community environment with the aim and purpose of finding facts which then lead to identification and ultimately lead to problem solving. The analytical tools in this writing use the theory of justice, the theory of responsibility and the theory of legal certainty. The results of this research show that the role of a notary in distributing inheritance through making inheritance statements for the Chinese group in the city of Semarang is as a medium for the birth of an authentic deed, including a certificate of inheritance for the Chinese group in the city of Semarang. Notaries are not required to carry out their official duties to investigate the truth of the identity, the truth of the material contents of the deed, and the authentic deed will be proof that an event or relationship has occurred between the parties and the notary's responsibility for the distribution of inheritance through making inheritance statements for Chinese groups in the city of Semarang is limited to at the beginning of the Deed/head of the Deed and the end/closing of the deed, and full responsibility for its contents and the Notary's Obstacles in Distribution of Inheritance through making Inheritance Certificates for Chinese Groups in the City of Semarang, including: 1) The Notary does not master and understand the provisions related to heir certificates, 2) The Notary has difficulty ascertaining whether the witnesses presented are appropriate. or not, 3) There is no unification regarding the implementation arrangements for making Certificates of Inheritance Rights and 4) There are witnesses or heirs who are not honest in giving information. In connection with the obstacles that occur regarding the preparation of certificates*

of inheritance rights for Chinese groups by Notaries, there are several ways to overcome these obstacles.

Keywords: Heir; Notary; Role.

1. Introduction

Based on Article 1 paragraph (3), Indonesia is a country of law, meaning that all actions of the government or its people are regulated by law, including inheritance which is an individual matter which is also regulated by law so that there is order and certainty and benefits for happiness. In dividing inheritance, a letter from a notary is required so that certainty can be achieved in the form of a deed made by a notary.¹

One of the pieces of evidence that determines a person's rights and obligations is a deed made by a notary. The duties and important role of a Notary can be said to originate from Articles 1867, 1868 and 1870 of the Civil Code. This is where we can see the important and very strategic role of a Notary in Indonesian legal system.

In Indonesia, when making Inheritance Certificates, the inheritance letters for European groups and Chinese groups are made by Notaries. This information has received full trust from the public, government agencies and the private sector, even from debtors (those who owe money to heirs), especially banks that hold the money of customers who have died. With this inheritance certificate, we can know exactly and for sure who has the right to the assets left behind by the testator. These assets include movable and immovable assets, tangible and intangible, all of which involve legal traffic.

Inheritance is actually regulated in many regulations or laws, both religious and state, inheritance issues are regulated clearly and in detail, even with the certainty that disputes related to inheritance will arise. However, the inheritance law currently in force in Indonesia is still not legal unification. On the basis of the inheritance law map, the reason a person becomes an heir is related to their blood relationship or lineage and because marriages are still very pluralistic, so there is still no uniformity in the regulation of inheritance issues in Indonesia. The inheritance law currently in force in Indonesia depends on the law of the heir. Inheritance law is inheritance law that applies to people who die or/or heirs including the Indonesian population, then what applies is customary inheritance law, or you can use Islamic inheritance law for those who are Muslim.

¹Sjaifurrachman, 2011, Aspects of Notary Responsibility in Making Deeds, Mandar Maju, Jakarta, p. 7

Meanwhile, if the heir belongs to the European or Eastern Chinese population, western inheritance law applies to them.²

Conflicts about inheritance generally revolve around two things, namely who is the heir and how much each heir will share. The rest are derivatives of these two things. It is also possible for inheritance issues to be regulated in detail and clearly in various regulations. At least no one will ever avoid inheritance problems where someone can become an heir (heir) and/or an heir (recipient).

Resolving inheritance problems materially and formally becomes a necessity. Materially, how the heirs and their parts become clear and clear in accordance with applicable regulations. Formally, it can be used as a basis for implementing inheritance, including the transfer of inherited assets, which requires written evidence, especially if it turns out to be a dispute.³

The Civil Law Book (*Burgerlijk Wetboek*), which is a translation of the Dutch civil law book, is known for classifying the population of the Dutch East Indies or known as political law as contained in *De Indische Straatsegling (IS)* where the Dutch divided the population/inhabitants (not a citizen)⁴ into three groups, namely the European group (Article 163 paragraph 2 IS), the indigenous group (Article 163 paragraph 3 IS) and the Foreign Eastern group (Article 163 paragraph 4 IS) where different rules apply to each group. Now, after Indonesia's independence, this classification is still valid and has not been eliminated. At the implementation level, it often causes complications, making it a problem in itself. Inheritance information is a guideline for heirs in carrying out inheritance distribution. The role of a Notary in relation to making inheritance information refers to customary law, or in accordance with the applicable Civil Code, which has been adapted to the Law on the Position of Notaries. The heirs want to distribute the inheritance equally and wisely according to the agreement, because a Notary is passive (adjusts) the expectations of the heirs or testator (when he dies). A notary has a formal function in making inheritance information for heirs, namely to determine the number of heirs because the Notary does not know how many heirs there are.

Notaries usually ask for help from village officials and other identity cards such as KTP, Family Card, Birth Certificate. On the other hand, the notary also has a material function in making inheritance information for the heirs, namely to

²Michael Hartono, *Legal Certainty for Indonesian Citizens in Making Inheritance Certificates, Legal Basis for Notaries in Making Inheritance Certificates*, Faculty of Law, Brawijaya University Malang, Vol 34 No 2 July 2019, p. 98-99

³Zaenal Mahmudi, 2013, *Journal of sharia and law, Wills, Alternative Solutions to Unfair Distribution of Inheritance*. UIN MALIKI, Malang. Pg 56

⁴Kartohadiprodjo, 1982, *Soediman. Introduction to Legal Order in Indonesia*, cet 10, (Jakarta: Ghalia Indonesia,), p. 56.

determine the number of heirs. By looking at the heirs, this will influence the distribution of the inheritance. Making inheritance information applies to all groups, namely Chinese and Native, but Chinese are more likely to use inheritance information when the testator has died.

The Chinese community prefers Chinese customary inheritance to the Civil Code (BW) because the Chinese community has been implementing traditional inheritance for generations and the Chinese community has always upheld Chinese customs. The factor that causes deviations in the distribution of Chinese inheritance is the assimilation or assimilation between Chinese culture and local culture. The deviation is that women receive inheritances, female heirs who receive inheritances must not be larger than men's inheritances or usually with the provision of 1 ½.

Chinese customary inheritance law is also recognized by the positive law of the Indonesian state. The legal consequence is that if an inheritance dispute occurs, those who play a role in resolving it are the elders, who can also be uncles or community leaders. The legal action taken by the heirs is that if there is a dispute over the distribution of inherited assets, it is resolved through family channels. If it cannot be resolved amicably, it will be resolved in court. In Chinese customary distribution of inheritance, usually the youngest brother plays an important role in managing the inheritance and must set the best example for his siblings and must also take care of the ashes of the ancestors. Research conducted on the Chinese community in Semarang City.

Inheritance law in Indonesia from ancient times to the present still has various forms, each population group is subject to the legal rules that apply to them in accordance with the provisions of the civil code. These population groups consist of European groups and those equivalent to them, Chinese and Non-Chinese Foreign Eastern groups, and the Bumi Putera group.

As is one of the inheritance problems in Semarang City, the heir has two partners (one unofficial wife, the other wife officially married at the Civil Registry). From the two couples, the heir has 5 (five) children consisting of 3 (three) illegitimate children who have been recognized as legitimate children, and 2 (two) children from an official marriage. The heir does not leave a will, so all the children become heirs as stated in the inheritance statement made by the Notary. In resolving inheritance problems, the Notary has played an important and successful role in resolving inheritance problems through making Inheritance Statements for heirs, so that inheritance problems have been resolved properly.

2. Research Methods

This research uses a sociological juridical approach method, the research

specifications used are analytical descriptive, the data used in this research includes primary data and secondary data, data collection in this research uses interview and literature study methods, the data analysis method uses qualitative analysis methods

3. Results and Discussion

3.1. Roles and Responsibilities of Notaries in Distributing Inheritance Through Making Inheritance Statements for Chinese Groups in the City of Semarang

The linguistic meaning of responsibility is the condition of having to bear everything (if something happens, you can be sued, blamed, sued, and so on).⁵

A notary is a public official who has the authority to make authentic deeds, regarding all actions and decisions required by general legislation to be desired by those interested that they are stated in authentic deeds, guarantee their date, store the deeds and issue grosse, copies -copies (derivatives) and quotations thereof, if such deeds are made specifically for that purpose or specifically for officials or other people.⁶

Notary products as the strongest and most complete evidence have an important role in every legal relationship in people's lives. In various business relationships, activities in the fields of banking, land, social activities, inheritance, and others. The need for written evidence in the form of authentic deeds is increasing in line with the growing demand for legal certainty in various economic and social relations, both at the national, regional and global levels.

An heir cannot directly have the authority to transfer ownership of inherited assets passed down by the Testator. The heirs are obliged to act in accordance with the existing provisions regarding the inheritance to which they are entitled by issuing an inheritance certificate as the main requirement. The inheritance certificate is proof that the heir is the person who really has the right to the inherited property.

An heir's certificate is a letter that contains correct and clear information about who has the rights to the assets left behind by the testator. Inherited assets can be movable and immovable assets, tangible or intangible. An inheritance certificate is a piece of evidence that is known in the realm of inheritance law as

⁵Devi Eriyanti, 2022, The Role of Notaries in Legal Certainty of Deeds of Power of Attorney to Sell for Bankrupt Sale and Purchase Objects, USM Law Review Journal Vol 5 No 1, (<https://journals.usm.sc.id>)

⁶M. Luthfan Hadi Darus, 2017, Notarial Law and Responsibilities of the Notary Position, First Printing, UII Press, Yogyakarta, pp. 1-2.

a tool that functions as written evidence that a person uses to show that the person is truly the party who has the right to act as the heir of the heir. The inheritance certificate is issued by an authorized official and prepared by the heirs themselves, so that the form of the inheritance certificate can be in the form of an authentic deed or a private deed.

In Indonesia, when making Certificates of Inheritance Rights, for several groups of people in Indonesia, such as the European group and the Chinese group, it has been and is still routinely made by Notaries. This information has received full trust from the public, government agencies and the private sector, even from debtors (those who owe money to heirs), especially banks for money saved by customers who have died. With the Inheritance Certificate, we can know exactly who has the right to the assets left behind by the testator. These assets include movable and immovable assets, tangible and intangible, all of which involve legal traffic. For example, the Agrarian Office can know for sure to whom an immovable property belonging to someone who has died will be inherited. Banks that hold the deceased's assets, whether in the form of cash as demand deposits or deposits or assets in safelots, can know for sure to whom they can pay the money or hand over the assets by releasing or allowing the safelocket to be opened. Bound joint property, including inheritance that has not been divided or divided, may only be passed on, in name or received, by all entitled parties. can know for sure to whom he can pay the money or hand over the assets by releasing or allowing the opening of the safe lock. Bound joint property, including inheritance that has not been divided or divided, may only be passed on, in name or received, by all entitled parties can know for sure to whom he can pay the money or hand over the assets by releasing or allowing the opening of the safe lock. Bound joint property, including inheritance that has not been divided or divided, may only be passed on, in name or received, by all entitled parties.⁷In this case, no heirs may be left behind, no matter how small their share in the joint property. Whoever is entitled to the undivided inheritance must be listed in the inheritance statement. In this context, inheritance information is also required by the Notary who will make a deed of transfer of rights.

Classification of the population based on ethnicity and applicable laws for each population group, this is a legacy of the Dutch Colonial Government in Indonesia, which until now is still considered a sacred rule of law that cannot be changed by anyone, even the government or state. In fact, in the context of legal reform and building a dignified and civilized nation, we must immediately abandon such regulations, because they are no longer in accordance with our independent nation. The three formal forms of proof of heirs and their institutions, namely:

⁷GHS Lumban Tobing, 1983, Notary Public Position Regulations (Jakarta: Erlangga)

1. European, Chinese/Chinese, Foreign Eastern groups (except Arabs who are Muslim) based on a Certificate of Inheritance made by a Notary.
2. Foreign Eastern Group (not Chinese/Chinese), based on the Certificate of Inheritance made by the Heritage Center (BHP)
3. The Indigenous group (Bumiputera) is based on a Certificate of Inheritance which is made privately, with a stamp, by the heirs themselves and is known by the Village Head and District Head according to the testator's last place of residence.

The three formal forms (letters) of proof as heirs and the agencies that make it necessary to be studied further and linked to the legal rules currently in force, where in the Citizenship Law there is no longer any term or division of the Indonesian population based on class or ethnicity. That the status of Indonesian Citizens (WNI) is no longer based on ethnicity or certain groups, but is based on law. This is in accordance with the provisions of Article 2 of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, namely that those who become Indonesian citizens are people from the original Indonesian nation - and people from other nations who are legalized by law as citizens. 5 The classification of residents in making inheritance certificates is also not in line with Article 1 paragraph (1), Article 2 paragraph (1),⁸

The role of the Notary in bridging the interests of the customer's heirs with the bank is in the process of making an Inheritance Certificate for the Chinese community which is necessary for processing legal actions, especially relating to the heir's inheritance. The Certificate of Inheritance Rights made by the Notary contains several information regarding the heir, the heirs, and the parts to which the heirs have rights based on the Civil Code. Therefore, notaries as public officials are required to act professionally and behave and adhere to the guidelines stated in the Law on Notary Positions and the Notary's Code of Ethics.

According to the results of interviews between the author and the source, it was stated that the role of the Notary in making inheritance certificates is certainly an important thing because with this letter, the legal process that will be carried out by the heirs can be made easier for the heirs, especially with regard to managing the heir's inheritance. . As for the certificate, it is also an important requirement in the processing process with other parties such as the bank office when it relates to savings and the BPN office regarding land ownership information.

⁸Surabaya Pena Sarana Notary Informatics and Indonesia Notary Community, 2009, pp. 156-157.

Therefore, the Notary needs to bridge the process to make it easier for the heirs to manage the legal process.⁹

According to Hans Kelsen, in his theory of legal responsibility, it states that: "a person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the event of a conflicting act."¹⁰Hans Kelsen further stated that:¹¹"Failure to exercise the care required by law is called negligence and error is usually viewed as another type of error (culpa), although less severe than the error which is accomplished by anticipating and intending, with or without malicious intent, harmful consequences. ." Hans Kelsen then divided the responsibilities consisting of:

- a. Individual responsibility means that an individual is responsible for his or her own violations.
- b. Collective responsibility means that an individual is responsible for an offense committed by another person,
- c. Fault-based liability means that an individual is responsible for an offense committed intentionally and with the expected aim of causing harm
- d. Absolute liability means that an individual is responsible for violations committed because they were unintentional and unexpected.

Responsibility in the legal dictionary can be termed liability and responsibility, the term liability refers to legal responsibility, namely accountability due to errors committed by legal subjects, while the term responsibility refers to political responsibility.¹²The theory of responsibility places greater emphasis on the meaning of responsibility which arises from the provisions of Legislation so that the theory of responsibility is interpreted in the sense of liability,¹³as a concept related to the legal obligations of a person who is legally responsible for certain actions that he can be subject to sanctions in cases where his actions are contrary to the law. In the administration of a State and government, responsibility is attached to positions which are also attached with authority. From a public law

⁹Results of interviews with Notary Wahyu Hermawati, SH, M.Kn. on August 15, 2023

¹⁰Hans Kelsen (a), as translated by Somardi, 2007, *General Theory of Law and State, General Theory of Law and State, Basics of Normative Legal Science as Empirical Descriptive Legal Science*, BEE Media Indonesia, Jakarta, p. 81.

¹¹Diana Zuhroh, *Concept of Heirs and Substitute Heirs: Study of Religious Court Judges' Decisions*, *Al-Ahkam*, Vol. 27, no. 1 (April 2017).

¹²HR. Ridwan, 2006, *State Administrative Law*, Raja Grafindo Persada, Jakarta, p 337.

¹³Busyra Azheri, 2011, *Corporate Social Responsibility from Voluntary to Mandotary*, Raja Grafindo Perss, Jakarta, p. 54

perspective, it is this authority that gives rise to accountability, in line with the general principle: "geenbevegedheid zonder verantwoordelijkheid there is no authority without responsibility; la sulthota bila mas-ulyat" (there is no authority without accountability)¹⁴

Thus, how should a Notary make a certificate of inheritance rights for the Chinese community by the heirs which guarantees legal accountability for the parties which will be used as the basis for legal actions for the heirs in subsequent legal actions, especially relating to the management of inheritance. Apart from that, it must also be made based on applicable laws and regulations.

The development of Chinese customary inheritance that applies to the Chinese community in the city of Semarang generally takes place with many changes. These changes specifically are actually slowly shifting the patrilineal kinship system that has been strongly adhered to in Chinese culture. The patrilineal system tends to be influenced by the parental kinship system. According to the original tradition, the Chinese community in Jepara regards boys as everything without any bargaining or other considerations. Now the method has changed, namely in certain cases the son may no longer be the sole dominant heir, here an exception may apply with the possibility of bad traits in sons.

Dominant rights in Chinese customary inheritance traditions are set aside, sons are not an option, on the other hand, daughters can be appointed as processors of inheritance as long as one of the parents is still alive, these conditions, although in Chinese society itself, still attract some criticism, However, with various conditions and realities, there is justification for this action to be accepted by the surrounding Chinese community. This is more because there has been assimilation in the culture of Chinese society.

The legal system used in dividing inheritance in the Chinese community in the city of Semarang uses the IndoChinese customary law system which is parental in nature, so it does not differentiate between male and female children as heirs. Chinese customary law in Jepara is the customs that occur in Chinese society and are assimilated with local customs, the heirs are the family left behind, namely the surviving wife/husband and their children. In Chinese society, there are 3 (three) types of property, namely as follows:

- 1) The inherited assets of a husband/wife that come from their parents or are their own that they brought during the marriage, for example their parents' jewellery.

¹⁴Ibid, p. 352.

- 2) Assets given/gifts received by husband/wife from parents or relatives at the time of marriage (several plots of land), which become joint property for household and children's needs
- 3) Joint assets (search) between husband and wife during marriage.

When parents die, these three types of assets are inherited assets which will be divided among the heirs based on the customs that apply in Chinese society.

Customs that guide Chinese society in carrying out inheritance, one example of which is inheriting large family houses, are becoming rare because generally when inheritance is distributed, the house is divided equally. If there is still a large family house, management is usually given to the oldest son and now it is possible to give it to the oldest child who lives with the parents, it is not considered a boy or a girl, the oldest child or the youngest child. A habit that still persists is the habit of giving jewelry to daughters, usually by their mothers, although nowadays it is difficult to call it family jewelry because usually the jewelry is only bought if the mother's own jewelry is finally sold and the jewelry she likes is bought because the model is out of date.

The Chinese community in the city of Semarang basically divides the rights and shares of male and female heirs into the assets inherited from their parents, whether they come from inherited assets or disbursed assets from their parents. But sometimes in dividing inheritance, there are those who give up their inheritance rights, and there are those who get more because they take care of their parents. In the Chinese community in Semarang there are 3 (three) child statuses, namely:

- 1) Legitimate Child.

A legitimate child is a child born in or as a result of a valid marriage. A legitimate child is a child who is born and raised during the marriage of his parents.

- 2) Illegitimate Children.

An illegitimate child is a child born from the relationship between two parents who are not married but live together (*samenleven*). Children born in a cohabiting relationship only have a legal relationship, especially a civil legal relationship with their mother and their mother's family, while their father must receive prior recognition. As is the case in matrilineal and parental/bilateral societies, children born in non-religious marriages of father and mother have no right to be heirs of their parents. Illegitimate children have the right to be heirs of their parents. An illegitimate child may only inherit from his mother or his

mother's relatives. In the Chinese community in the city of Semarang there are still many deviations from what is said above.

3) Adopted children.

An adopted child is a child whose rights are transferred from the authority of the parents' family, legal guardian, or other person responsible for the child's care, education and upbringing to the environment of the adoptive parents based on a court decision or determination. Ethnic Chinese in Jepara also know about child adoption. Adoption of a child is usually carried out according to custom and then a deed of adoption is drawn up before an authorized official. Adoption of children among ethnic Chinese in the city of Semarang is usually driven by the factor of not having children or not having sons.

There are no written procedures or procedures for adopting a child in the city of Semarang regarding the conditions for adopting a child. Adoption of a child is usually carried out by discussion with the extended family. If the family agrees, the adoption of the child can be done directly. Usually parents who adopt a child give money or objects that can be interpreted as a symbol of the validity of the child's adoption before authorized officials.

In the past, the kinship system of Chinese society adhered to a patrilineal kinship system. Therefore, the presence of boys is expected. If someone does not have a son, it is not uncommon for him to take an adopted son. Usually the children of the closest relatives are taken. Now boys and girls are the same so there is no obligation to appoint a boy as the successor to the extended family.

The relationship between adopted children and biological families is not broken. In the Chinese community in the city of Semarang, parents who do not have biological children but have adopted children, adopted children who behave well towards their adoptive parents receive an inheritance from their adoptive parents. If the adoptive parents have biological children and adopted children, then in inheritance there are biological children who will get more than the adopted children because the adopted children can still inherit from their biological parents but it does not rule out the possibility that the biological children will receive the same share as the adopted children. , this depends on the adoptive parents.

With the existence of a culture related to the distribution of inheritance, including the size of the distribution of assets, types of assets, child status, marital status, and the kinship system and customary rules in the Chinese community in the city of Semarang, in the distribution of inheritance there needs to be a party who helps ensure that heirs do not experience difficulties. A notary can help resolve inheritance problems, through making an Inheritance

Statement. The Inheritance Statement is a form of formal evidence that can serve as a guide in distributing inheritance to heirs. This is in accordance with Article 1 number 1 of Law Number 2 of 2014 concerning the Law on Notary Positions that a Notary is a public official who has the authority to make authentic deeds and has other authorities as intended in other Laws.¹⁵

One of the roles of a Notary in resolving inheritance problems through making an Inheritance Certificate in Semarang City Regency, is as follows: Inheritance Certificate which has been signed by a Notary in Semarang City, explaining that based on the information provided by the interested person and after asking to the Directorate General of General Legal Administration, Central Section of the Register of Wills, Ministry of Law and Human Rights, that on that date, as is evident from the Excerpt from the Death Certificate issued by the Semarang City Population and Civil Registration Service, on the date and number that has been determined, it is stated that he has passed away. Mr. A (hereinafter referred to as the Heir) with his place of residence mentioned, that the Heir was legally married for the first and last time to Mrs. there was a complete mix-up of assets, that Mr. so that according to the law between the Heir and Mrs. B there was complete mixing of assets, that Mr. A had died at the place and date as stated in the Excerpt from the Death Certificate dated and numbered, that the heirs had children each and in succession, namely: so that according to the law between the Heir and Mrs. B there was complete mixing of assets, that Mr. A had died at the place and date as stated in the Excerpt from the Death Certificate dated and numbered, that the heirs had children each and in succession, namely:

- 1) 2 (two) illegitimate children who have been recognized as legitimate children respectively and in succession, namely: named V and W. These two children are the result of the relationship between the Heir and Mrs C.
- 2) 1 (one) illegitimate child who has been recognized as a legitimate child, namely: named This legal marriage resulted in 2 (two) children, namely: Y and Z.

That in accordance with the letter from the Ministry of Law and Human Rights of the Republic of Indonesia, the Directorate General of General Legal Administration dated and number, there is no registered will deed in the name of the Heir, that according to the law the heirs of the Heir are the 5 (five) children. on. That therefore the 5 (five) children mentioned above, excluding anyone else, have the right to take legal action over all the assets inherited from the Testator, including the right to request and receive control and use of the assets in the broadest sense. These information are stated by the Notary in the Inheritance

¹⁵Results of interviews with Notary Wahyu Hermawati, SH, M.Kn. on August 15, 2023

Certificate. This statement was made at the request of the heirs and signed by witnesses.

In the Construction of Notary Law, one of the duties of the Notary's position is "Formulating the wishes/actions of the person/persons in the form of an Authentic Deed, taking into account the applicable legal rules", this is as stated in the Jurisprudence of the Supreme Court of the Republic of Indonesia, namely: "The function of a Notary is only record/write down what is desired and submitted by the parties appearing before the notary." There is no obligation for the Notary to materially investigate anything (things) put forward by the Applicant.

The form of a Notarial Deed is regulated based on the provisions of Article 38 UUJN, namely as follows:

1. The beginning of the Deed/head of the Deed includes the above.

The part of the pkta which is named the Head of the Deed. Head of Deed is the part at the beginning of the deed which contains the Deed Title, Deed Number, Hour, Day, Date, Month and Year as well as the Notary's Full Name and Place of Domicile;

2. The body of the deed includes above.

This section contains the Full Name, Place and Date of Birth, Nationality, Occupation, Position, Domicile of the Presenters and/or People They Represent, Information regarding the Acting Position of the Presenters, this section is also called the Comparative Section, namely Names of the Presenters, Occupation /Position and place of residence, along with information about whether the person acting for himself or as a representative/proxy of another person, which also states the job/position and place of residence as representative or proxy. Komparisi means information about the Opponent, the Comparatives themselves are called Komparan. Then, the Body of the Deed section also contains the contents of the Deed which are the wishes and desires of the interested parties which state the provisions or agreements desired by the Applicants. For example, the Deed is a Sale and Purchase Deed, then the contents of the Deed contain what was agreed upon in the Sale and Purchase by the opposing parties. The Civil Code in Agreements adheres to Open Principles, so that Agreements follow whatever is desired by the Parties, as long as it does not conflict with the Law, Public Order and Morality. The body of the Deed also contains the full name, place and date of birth, as well as occupation, position and residence of each identifying witness; And The body of the Deed also contains the full name, place and date of birth, as well as occupation, position and residence of each identifying witness; And The body of the Deed also contains the full name, place

and date of birth, as well as occupation, position and residence of each identifying witness; And

3. Final Closing Deed includes above.

a. Description of the Reading of the Deed as intended in Article 16 paragraph (1) letter M / Article 16 paragraph (7);

b. Description of the signing and place of signing or translation of the deed, if any;

c. Full Name, Place and Date of Birth, Occupation, Position, Domicile and Residence of each Witness to the Deed; and the final or closing part of the Deed, is a permanent form, which also contains the place where the Deed was formalized and the names, occupation/position and residence of the witnesses. Usually in the Head of Deed section the names and witnesses are not mentioned, but only appointed. Meanwhile, their names will be mentioned at the end of this deed. Witnesses in this case are expected not to have a family relationship with the Notary.

Thus, from the description in the UUJN regarding the Notary's responsibilities in distributing inheritance through making inheritance statements for Chinese groups in Semarang City, it is in accordance with the Authority of the Position, it can be stated that the Notary's Responsibility for the Deed he makes is Limited to the Initial Part of the Deed/Head of the Deed and the Final Part / Closing the Deed, in this section the Notary has full responsibility for its contents both formally and materially, regarding the identity of the person appearing before the Responsible Notary as long as it is supported by an identity issued by another authorized official, and whether or not the Appearing Party has come to make the Agreement, regarding the correctness whether or not there are witnesses, regarding the day, date and so on, as mentioned above.¹⁶

The notary is not a party to the deed he or she makes. Article 38 paragraph 2 d UUJN states that: "The beginning or head of the deed contains the full name and place of residence of the notary, at the end of the deed the signature of the notary must be included." The inclusion of the Notary's Name and Signature is often interpreted to mean that the Notary is a Party to the Deed, so that if there is a problem with the Deed, the Notary is often positioned as a Defendant or Co-Defendant, witness, Suspect, Defendant. Interpreting the position of a notary in this way is misguided because this view does not understand the position of a notary in the national legal system.

¹⁶Results of interviews with Notary Wahyu Hermawati, SH, M.Kn. on August 15, 2023

Notaries cannot be held responsible for losses that arise as a result of making a deed or its preparation and implementation as long as the assistance provided by the notary has been carried out in accordance with the provisions of the UUJN, other laws and regulations within the limits of reasonable care.

Thus, the Notary's responsibility for distributing inheritance through making inheritance statements for Chinese groups in Semarang City is limited to the beginning of the deed/head of the deed and the final part/closing of the deed, and full responsibility for its contents.

Meanwhile, normatively the role of a notary is only as a medium for the production of authentic deeds, including certificates of inheritance for Chinese groups in the city of Semarang. Notaries are not required to carry out their official duties to investigate the truth of the identity, the truth of the material contents of the deed, and an authentic deed will be proof that an event or relationship has occurred between the parties. Legal sanctions that can be applied to applicants who provide false information regarding inheritance are in the form of civil sanctions, prosecution for compensation by the injured party or criminal sanctions in accordance with the formulation of criminal acts committed under Article 263 of the Criminal Code.¹⁷

The Notary, in carrying out his duties in making the Authentic Deed, has complied with the procedure for the process of making the Authentic Deed, this is because the Notary before making the Deed has first checked the files in accordance with the documents shown to him. Meanwhile, in the Legal Dispute Element, such as if a Notary commits an Act of Abusing Authority, considering that the Authority vested in him has been misused, so that the Use of the Authority is ultimately not in accordance with the Purpose of Granting the Authority itself, the Notary will be subject to Administrative, Civil and Criminal Sanctions.

The parties concerned who distribute inheritance through making inheritance statements for Chinese groups in the city of Semarang, if there are parties who provide false information or other things, are not the responsibility of the notary. Regarding disputes between the parties, these are outside the authority of the Notary.

3.2. Obstacles and Solutions: The Role and Responsibilities of Notaries in Distributing Inheritance through Making Inheritance Certificates for Chinese Groups in the City of Semarang

A certificate of inheritance rights is a form of proof from the heir regarding the truth that the person is the right person and has the right to inherit from the heir,

¹⁷Results of interviews with Notary Wahyu Hermawati, SH, M.Kn. on August 15, 2023

which in its contents explains the position of the heir and the relationship with the heir. A certificate of inheritance rights is made with the aim of proving who is the legal heir to the inheritance, which has been opened according to law and what portion or share each heir has in the inheritance which has been opened. Information on inheritance rights is also called a Certificate of Inheritance Rights (SKHW). A certificate of inheritance rights is a letter of proof of inheritance, namely a letter that proves that those mentioned in the certificate of inheritance are the heirs of a particular heir.

Certificates of inheritance rights are made by different officials based on population groups. It was stated that there were three officials who had the authority to make inheritance certificates. Each of them is a notary for the Chinese group, Balai Harta Ininggalan (BHP) for the non-Chinese Foreign East Group or made by the heirs themselves on paper witnessed by the village head/head of the village and confirmed by the sub-district head for the Bumiputera group of Indonesian citizens. Meanwhile, the Heir Certificate issued by the Village Head serves as a basis for rights in determining the heirs who are entitled to an inheritance.

The heir certificate is generally made under the hand of the village head and is known to the sub-district head for certain purposes. The certificate can also be warmed by a notary after obtaining information from the local sub-district. Based on Law Number 30 of 2014 In Article 15 paragraph (2) letter b, it is stated that a Notary in his position also has the authority to record documents privately by registering them in a special book. The book in particular is called the Private Letter Registration Book.

A notarial deed contains information on the statements of the parties and is made at the will or request of the parties, the notary makes it in a form determined according to law, the notary is not a party to the deed, the inclusion of the notary's name in the deed is due to a statutory order. Making a certificate of inheritance rights carried out by a Notary certainly cannot be separated from various existing obstacles.

Based on the explanation above, of course there are obstacles in the process of making a certificate of inheritance rights related to the disbursement of term deposit funds by the heirs. According to notary Hermawati SH., MKn., several forms of these obstacles include the following:¹⁸

Notary's lack of thoroughness in checking and ensuring the completeness of the documents required for making a Certificate of Inheritance Rights. In this case, it is a human error on the part of the Notary as the public official who carries out

¹⁸Results of interviews with Notary Wahyu Hermawati, SH, M.Kn. on August 15, 2023

the preparation of documents related to the heir's deposit. This is one of the obstacles that can cause problems in the process of managing the heir's inheritance, especially in dealing with the parties who store and are responsible for the heir's assets, and can be quite detrimental to the heirs. In order to properly carry out the duties of a Notary, the Notary must follow one of the principles, namely the principle of accuracy. When a notary takes action, it must be prepared and based on applicable legal regulations. Examining all the evidence shown to the Notary and listening to information or statements from the parties must be used as basic material to be included in the deed. This principle of due diligence is an application of Article 16 paragraph (1) letter a, which states that in carrying out one's duties, one must act carefully. The obstacles for notaries in making heir statements for the Chinese community in Semarang City are as follows:

1. There are several cases where problems originate from Notaries who do not master and do not understand all the provisions that apply to Certificates of Inheritance Rights in Indonesia. This is because the Notary does not really understand inheritance law so that the Notary has difficulty in consolidating legal events and putting them into a certificate of inheritance rights. According to the KBBI, the meaning of constant is asking questions about the existence of a symptom and drawing conclusions based on real evidence or symptoms.
2. A Notary has difficulty ensuring that the witnesses presented really know about the family of the heir who has died, for example the witness really knows the number of heirs' children, so that there are no heirs whose names are not included in the Certificate of Inheritance Rights.
3. There is no unification regarding the implementation arrangements for making Certificates of Inheritance Rights in Indonesia. The meaning of the word unification itself is to impose a certain type of law on all the people in a certain country. If a law is declared to apply in a unified way, then in that country only one particular type of law applies and not various kinds of laws apply.
4. It is still common to find witnesses or heirs who are dishonest in providing information. This is also one of the obstacles in making an heir certificate, where witnesses and heirs should be able to provide honest information regarding the data needed to make an heir certificate and the completeness of each party making the power of attorney.

In essence, a Notary as a public official only serves as a consultant or relayer or records in writing and authentically the legal actions of interested parties. The notary is not in it, the notary is an outside party, those carrying out legal acts are interested parties. The initiative in making a Notarial deed or authentic deed lies with the parties. Therefore, a notarial deed or authentic deed does not guarantee

that the parties are "telling the truth" but what is guaranteed by an authentic deed is that the parties are "truthfully saying" as stated in the deed.

The truth of the heir's words in the process of making a Certificate of Inheritance before a Notary as contained in the deed is not the responsibility of the Notary, on the contrary the Notary states that the parties or heirs are correct in saying that, what is said in the Certificate of Inheritance submitted to the Notary whether it contains truth or lies, this is not the responsibility of the Notary. The Notary only records what is said by the parties who appear before the Notary, if what is said is not true or contains falsehoods or falsehoods, then the deed or Certificate of Inheritance remains genuine, not fake, invalid or fake and false is the statement of the the parties submitted to the Notary, which is then stated in a deed or Certificate of Inheritance.

Making proof of heirship is a civil right of every citizen, not a gift from a notary or the state/government or anyone else. Until now, there has been no legal unification (a form of formality of letters and officials or institutions that should or are the only ones to provide proof of being the heir. According to the author, this lack of legal unification is what needs to be a concern for the government and associations and legislators in to pay attention to this country and make a regulation.

To eliminate and eliminate discrimination in formal forms and officials/institutions who make proof of heirship for Indonesian citizens, the Notary can act as the only party (official or institution) who can make proof of heirship. As a Notary who lives in an independent country, the Notary must actively participate in implementing the values of independence in real action.

The notary must be ready to become an agent of renewal and the only official authorized to produce proof of heirship in the (formal) form, namely a Certificate of Inheritance for all Indonesian citizens regardless of class/ethnicity/tribe/or religion. Notaries must position themselves as officials who are present to serve the interests of the community. Notaries are not good servants if they still carry a colonial vision and mission, namely they still want to create, maintain and carry out discriminatory legal actions, especially creating proof of heirship. Therefore, it is hoped that Notaries will position themselves as Notaries to become good public servants,

Of course, regarding the ongoing problems related to the preparation of certificates of inheritance rights by Notaries for Chinese groups, the source said that the solution to each problem that occurred was as follows:

1. The need for accuracy on the part of the Notary as the letter maker so that there are no errors in filling out the document and the need to apply the

principle of accuracy in every document creation that is being worked on.

2. The Notary also needs to know and understand all the provisions that apply to the Certificate of Inheritance Rights in Indonesia so that the Notary can more easily stabilize legal events and express them in the certificate of inheritance rights.

3. Regarding the honesty of witnesses and heirs, the Notary needs to ensure the completeness and honesty of a document and ensure that the words of witnesses and heirs are accountable so that in the future there will be no problems related to making a certificate of inheritance rights regarding the deposit that will be intended for the heirs.

4. Conclusion

The role of the notary in the distribution of inheritance through making inheritance statements for the Chinese group in the city of Semarang is as a medium for the birth of an authentic deed, including a certificate of inheritance for the Chinese group. Chinese in the city of Semarang. Notaries are not required to carry out their official duties to investigate the truth of the identity, the truth of the material contents of the deed, and the authentic deed will be proof that an event or relationship has occurred between the parties and the notary's responsibility for the distribution of inheritance through making inheritance statements for Chinese groups in the city of Semarang is limited to at the beginning of the Deed/head of the Deed and the end/closing of the Deed, and full responsibility for its contents. Obstacles for Notaries in Distribution of Inheritance through making Inheritance Certificates for Chinese Groups in the City of Semarang include: a) Notaries do not master and understand the provisions related to heir certificates, b) Notaries have difficulty ascertaining whether the witnesses presented are appropriate or not, c) Not yet.

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