

Legal Consequences of Inheritance Rights Disputes Against Cancellation of Heritage Land Rights (Case Study of the Decision of the Surakarta District Court)

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Abstract. *Inheritance disputes that trigger the cancellation of Ownership Certificates (SHM) are complex legal disputes that test the integrity of authentic deeds and the land registration system. This study aims to analyze the legal status of SHMs that are canceled by the court, the legal consequences of deed cancellation due to inheritance disputes, inheritance distribution based on Islamic law, and the construction of a preventive heir deed draft in the context of the Surakarta District Court Decision Number 70/Pdt.G/2018/PN Skt. This research uses a sociological juridical method with a legislative and case study approach. The data used are secondary data sourced from primary, secondary, and tertiary legal materials through library research collection techniques, which are then analyzed qualitatively and descriptively. The results of the study show that the SHM that was canceled by the court is legally void due to legal defects in the basis of its rights, so that the BPN is obliged to delete it from the Land Book based on PP No. 18 of 2021 and Permen ATR/BPN No. 16 of 2021. Cancellation of an authentic deed destroys the chain of ownership and requires the restoration of its original condition. According to Islamic law (KHI), inherited land is a joint inheritance that must be divided based on the principle of *ijbari* and the *faraidh* formula or peaceful deliberation (*takharuj*). The construction of a draft heir deed made by a Notary must begin with checking the electronic will via the AHU Online of the Ministry of Law and Human Rights, containing the qualifications of Article 111 paragraph (1) letter c of Permen ATR/BPN No. 16 of 2021, and including an absolute guarantee clause to mitigate the concealment of heirs.*

Keywords: *Cancellation; Certificates; Decisions; Inheritance.*

1. Introduction

Indonesia is a state based on law. As stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. As a state based on law, Indonesia is responsible for protecting all its citizens and regulating the use of all aspects of life to improve the welfare of all Indonesian people. The basis of the Indonesian legal

system is the concept of a welfare state, which aims to maximize prosperity for its citizens.¹The goal of a welfare state to guarantee citizens' rights in the modern era is highly dependent on the availability of sufficient natural resources. The availability of adequate natural resources plays a crucial role and is a key determinant in efforts to fulfill citizens' basic rights, including the right to education, health, and social welfare.²

Law Number 5 of 1960 concerning Basic Agrarian Regulations, also known as the Basic Agrarian Law, regulates the basic law regarding land in Indonesia. This law outlines the main principles of Indonesia's National Land Law. While most of its articles regulate land rights, several key provisions require more detailed regulation.³The Basic Agrarian Law (UUPA) No. 5 of 1960 regulates the State's Right to Control and the social function of land in individual, communal, and religious contexts. Its purpose is to protect land and regulate legal relations related to land ownership, as well as provide legal protection to land rights holders. One aspect regulated is the government's obligation to register land throughout the Republic of Indonesia and provide land rights certificates as strong evidence of land ownership to rights holders.⁴

The concept of state land control aims to achieve public prosperity. The Basic Agrarian Law (UUPA) recognizes several primary land rights, such as Ownership Rights (Hak Milik/HM), Cultivation Rights (Hak Guna Usaha/HGU), Building Rights (Hak Guna Bangunan/HGB), and Use Rights (Hak Pakai). However, land disputes and conflicts remain rife, often due to overlapping rights.⁵Resolving this conflict requires careful and serious action, especially from the government, to avoid a larger conflict. Procedural errors or lack of thoroughness in granting land rights can lead to problems later. Inheritance rights related to land ownership are also regulated by civil law.

Inheritance law in Indonesia is a pluralistic civil law, meaning that inheritance laws in Indonesia are diverse. There are Islamic Inheritance Law, Western Civil Inheritance Law (BW), and Customary Inheritance Law. Inheritance law is regulated in Book II of the Civil Code. There are 300 articles regulating inheritance, starting from Article 830 of the Civil Code to Article 1130 of the Civil Code. This principle is emphasized in the provisions of Article 830 of the Civil Code

¹Achmad, Mukti Fajar and Yulianto. 2017. Dualism of Normative and Empirical Legal Research. Yogyakarta: Pustaka Pelajar.

²Efendi., et al. (2025). "Legal Analysis of Land Ownership Rights Dispute Settlement According to Law Number 5 of 1960 Concerning Basic Agrarian Principles". Journal Scientific of Mandalika (JSM), no. 8: 2089-2097.

³Boedi Harsono. 2018. Indonesian Agrarian Law (History of the Formation of the Basic Agrarian Law, Its Contents and Implementation). Publisher: Tri Sakti University. Jakarta.

⁴Kaligis, et al. (2025). "Legal Protection of Land Ownership Rights Holders Through the Sale and Purchase Process in the Transfer of Land Rights." Lex Administratum 13, no. 1.

⁵Hans Kelsen. 2011. Pure Legal Theory, Fundamentals of Normative Legal Science, Nusa Media, Bandung.

(inheritance only occurs when there is the death of the testator or the legal owner of the inherited property).⁶

The distribution of inheritance is considered inappropriate and unfair, in this case one of the family members is dissatisfied with the portion of the inheritance they received, so they file a lawsuit in court in the hope of getting the justice they hope for.⁷ Even though the family realizes that a family resolution is the best way, if this process cannot be realized, then only through legal channels is considered to fulfill the principle of justice for the disputing parties, because a fair decision is considered to fulfill legal certainty for the parties.

The problem of land disputes between heirs is currently a scourge because it is thought that the inheritance can provide welfare for those who receive the inheritance. So in Indonesia, news about household breakdowns due to inheritance is often heard. As happened in the case of the dispute over Decision No. 70 / Pdt.G / 2018 / PN Skt. The problem in the inheritance dispute case in case No. 70 / Pdt.G / 2018 / PN Skt was because one of the heirs (the older sibling) did not accept that a plot of land and the building on it which was the inheritance of his parents was certified in the name of another heir (the younger sibling) while his parents were still alive without asking for consideration from the heir who objected.

Based on the background description related to the legal basis of inheritance rights disputes that can result in the cancellation of land rights, it becomes an interesting topic of discussion for the author. So the author conducted a study entitled "Legal Consequences of Inheritance Rights Disputes on the Cancellation of Inherited Land Rights (Case Study of Decision Number 70/Pdt.G/2018/PN Skt)", with the formulation of the problem, namely what is the legal status of the ownership certificate that was canceled by the court?, how is the legal analysis of the legal consequences of the cancellation of the Deed due to the occurrence of inheritance disputes over land ownership? and how is the analysis related to the distribution of inheritance based on Islamic law?

2. Research Methods

According to Soerjono Soekanto, a research method is a scientific activity based on a specific method, system, and thinking aimed at studying a particular phenomenon through analysis. It also involves an in-depth examination of the legal factors involved in the phenomenon and then attempts to find a solution to the problems that arise within the phenomenon in question.⁸ Research methods

⁶Karin Aulia Rahmadhanty. (2018). "The Rights of Adopted Children to Receive Inheritance as Reviewed from Indonesian Inheritance Law". Normative Journal Volume 6 Number 2.

⁷Kurniawan, et al. (2025). "Implementation of the Principle of Justice in Land Dispute Settlement in Indonesia: Implementation of the Principle of Justice in Land Dispute Settlement in Indonesia." Journal of Indonesian Comparative of Syari'ah Law 8, no. 1: 227-248.

⁸Zamaludin Ali, 2016, Legal Research Methods, 7th Edition, Sinar Grafika, Jakarta.

are procedures for carrying out research.⁹The methods in this research are as follows: This type of research is sociological juridical research, as explained by Mukti Fajar and Yulianto Achmad. Normative legal research is research that positions law as a system of norms. The normative system in question concerns the principles, norms, and rules of statutory regulations, court decisions, agreements, and doctrines (teachings).¹⁰The approach used in this research is a statute approach. The type and source of data used in this study are secondary data. Secondary data is data obtained by researchers from literature, which is the result of research. This data is readily available in the form of books, usually provided in libraries. The secondary data sources used in this study include official documents, books, and research results in the form of reports. The data collection method in this study uses library research techniques (document study).¹¹Library research involves collecting data by reviewing literature or secondary data, including primary, secondary, and tertiary legal materials. Written or graphic data sources include official documents, books, journals, legal literature, and documents related to the research problem. The analysis in this study is prescriptive.

3. Results and Discussion

3.1. Legal Status of Land Ownership Certificates Cancelled by the Court

According to Article 1 Number 14 of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency No. 9 of 1999 (Permen Agraria/BPN 9/1999) concerning Procedures for Granting and Cancelling Rights to State Land and Management Rights, cancellation of land rights can be defined as an act of revoking a decision regarding the granting of a right or certificate of land rights, which is carried out due to an error or administrative legal defect in the issuance process, or as an execution step to implement a court decision that has permanent legal force (*inkracht*).

As stipulated in Article 1 Number 20 of Government Regulation No. 24 of 1997 concerning Land Registration, which affirms that a certificate is a document proving rights. Each certificate has been recorded in the relevant land register, thus reflecting the legal status of the registered rights and providing legal certainty for the rights holder. A land title certificate serves as authentic evidence with strong legal force, unless another party is able to provide evidence that challenges the claim. In addition to administrative defects and the implementation of a legally binding court decision, the validity of ownership of the party listed on the certificate can also be challenged within a period of up to five years from the

⁹Jonaedi Efendi, 2018, Normative and Empirical Legal Research Methods, Prenada Media Group, Jakarta.

¹⁰Achmad, Mukti Fajar and Yulianto. 2017. Dualism of Normative and Empirical Legal Research. Yogyakarta: Pustaka Pelajar.

¹¹Rifa'i Abu Bakar, 2021, Introduction to Research Methodology, Suka Press UIN Sunan Kalijaga, Yogyakarta.

certificate's issuance. The step that can be taken is to carry out the process of canceling the land title. Conflicts or disputes are often the main triggers for re-evaluation and cancellation of certificates to ensure the certainty and validity of the land rights in question.

Land disputes are not limited to disputes between individuals, but can also occur between individuals and groups or between groups themselves. The disputed objects include various land categories, such as privately owned land or land owned by legal entities, state-owned land, state land assets, customary land, former western land, and plantation land. Thus, the spectrum of these disputes demonstrates the existence of various types of conflicting rights and interests in land ownership, adding to the complexity of their handling and resolution.

In handling land dispute resolution, in accordance with Article 3 letter b of Regulation of the Head of the National Land Agency Number 4 of 2006, the BPN regional office has full authority to handle such disputes. These disputes can be resolved through various mechanisms, including litigation, non-litigation, and advocacy, depending on the circumstances and characteristics of the case.

Litigation mechanisms can be chosen when conflicts or disputes arise related to legal certainty and rights, especially when the parties no longer demonstrate good faith in reaching an agreement. Furthermore, this mechanism is also applied in cases of legal violations, where the resulting decision is binding. Non-litigation mechanisms are preferred when there are interests that need to be protected before the public, and when all parties have a strong desire to reconcile, so that the decision taken is voluntary. Advocacy mechanisms are used for disputes related to the struggle for rights and the certainty of rights, but also include broader and deeper implications that affect the economic, social, cultural, political, and security aspects of society.¹²

Based on Article 19 paragraph (2) letter c of Law No. 5 of 1960 (UUPA), a certificate is a strong means of proof, but Indonesia adheres to a system of negative publication with positive elements. When the court (in this case the Surakarta District Court through Decision No. 70/Pdt.G/2018/PN Skt) grants the lawsuit and declares the certificate null and void or has no legal force, there is a drastic shift in legal status, namely:

1) Loss of Evidentiary Value

The legal status of the SHM changed from strong evidence to legally flawed. A court ruling declaring it "null and void" or "not legally binding" means that from the outset, the legal action (the inheritance name change process) was deemed non-existent and invalid.

¹²Angelia Rosmaniar. 2023. Cancellation of Land Ownership Certificates for Disputed Land in Kupang Regency, Scientific Journal and Student Work, Vol. 1 No. 3.

2) The Object of the Dispute Returns to its Original State (Restitutio in Integrum)

Legally, the land reverts to its original status as Undivided Inherited Property. The rights of the previous certificate holder are extinguished, and ownership reverts to all legal heirs in accordance with the court's decision.

The Court's decision in Decision No. 70/Pdt.G/2018/PN Skt does not automatically delete data from the land register. Administratively, the legal status of the certificate is "paralyzed" until administrative action is taken by the National Land Agency (BPN).

1) Application for Deletion

The winning heir must submit an application for cancellation of rights to the Land Office by attaching a copy of the decision that has permanent legal force (*inkracht*).

2) Recording in the Land Book

The Head of the Land Office will make a note in the Land Book and other public registers that the certificate has been cancelled based on a court decision.

3) Withdrawal of Certificate

The BPN will withdraw the old physical certificate from the previous holder to be destroyed/declared invalid.

Analysis related to Decision No. 70/Pdt.G/2018/PN Skt the occurrence of disputes triggered by the Issuance of a Certificate of Heir (SKW) that omits the name of another heir or the name change process at the BPN which is only based on a unilateral SKW. When the court sees an unlawful act (PMH) in the embezzlement of the origin of the heir, the legal status of the certificate becomes an administrative product born from an unlawful act. Therefore, cancellation is an absolute consequence to restore the rights of the wronged heirs. The legal status of a certificate that is canceled by the court is that it has no binding legal force and no longer functions as a means of proving land rights. This results in the cancellation of all legal acts born from the certificate (such as buying and selling or granting mortgage rights) unless there is an element of "good faith" from a third party protected by law.

Based on the explanations that have been outlined, the author is able to conclude that the cancellation of a land ownership certificate (SHM) by a legally binding court decision has absolute legal consequences, and the legal status of the certificate must be reviewed based on the theory of legal certainty (*rechtzekerheid*). This theory emphasizes that the law must create order and certainty, and a court decision is the highest manifestation of this certainty. If the court decides to cancel a SHM due to a legal defect inherent in the issuance process (for example, based on an unlawful act or an invalid deed in an inheritance

dispute), then the certificate formally and materially loses its legal force (null and void). This status is reinforced by the principle of the presumption of legality of a court decision (*presumptio iustae causa*) which requires the National Land Agency (BPN) to carry out the cancellation by deleting it from the land register and certificate. The implication of this cancellation is the return of the land status to its legal condition before the canceled act occurred, namely as undivided inheritance (*tirkah/boedel*). In the land context, a canceled SHM no longer functions as perfect proof of ownership, so that legal certainty is transferred from the holder of the canceled certificate to legal certainty for the heirs whose rights have been violated.

3.2. Legal Consequences of Cancellation of Deeds Due to Inheritance Disputes Over Land Ownership

According to Article 1869 of the Civil Code, an authentic deed is a deed made in a form determined by law or before an authorized public official, for the purpose for which the deed is made. An authentic deed must meet several requirements, namely an authentic deed must be made in a form determined by law, an authentic deed must be made before or by a public official (*openbaar ambtenaar*), the official must be authorized, for that purpose at the place where the deed is made, the purpose of authorized is related to his position, the type of deed he made, the day and date the deed was made, and the place where the deed was made.

Authentic deeds can also be canceled, because not all authentic deeds meet the terms and conditions stipulated by law. Authentic deeds come in many forms, one of which is the land sale and purchase deed that we are very familiar with, because to carry out a land sale and purchase, a land sale and purchase deed is required, which will later become the basis for the issuance of a certificate for the land. The Land Ownership Certificate was canceled by the court because it contained administrative defects in the form of incorrect legal data errors. The provisions for canceling a land ownership certificate due to a court decision are regulated in the Minister of Agrarian Affairs Regulation No. 9 of 1999 that the Decision to cancel land rights due to implementing a court decision that has obtained permanent legal force is issued upon the request of the interested party. The decision of a court decision that has obtained permanent legal force includes being declared null and void or having no legal force or something that is essentially the same.

Analysis of Decision Number 70/Pdt.G/2018/PN Surakarta provides a clear picture of the legal vulnerability of an authentic deed or land registration product if it is based on incorrect information. In this case, the cancellation of land rights began with a legal defect in the upstream process of the transfer of rights, namely the Certificate of Inheritance (SKW) dated May 23, 2016. Normatively, a deed or certificate of inheritance is a crucial instrument that determines the legal subject entitled to inherited assets. When Defendant I and Defendant II intentionally only listed two names of heirs and excluded the Plaintiff and Co-Defendant I, the

principle of *nemo plus iuris ad alium transferre potest quam ipse habet* (a person cannot transfer rights beyond what he owns) was violated. The first legal consequence that emerged was the lack of legitimacy in each derivative document, because the transferred rights contained defects in will and substance from their administrative content.

This dispute reveals the phenomenon of malpractice in the process of changing the name and splitting the Certificate of Ownership (SHM) No. 463/Jajar into SHM No. 03460 and SHM No. 03461. Based on the facts of the trial, the transfer of rights was based on documents that did not reflect the material truth regarding the actual composition of the heirs. In the perspective of notary and land registration, every transfer of land rights must be based on complete subject data. The neglect of the Plaintiff's rights as the legitimate biological child of the deceased W and the deceased S resulted in the entire series of legal acts being qualified as unlawful acts (*onrechtmatige daad*). The cancellation of rights in this context is not merely an administrative matter, but rather the restoration of the legal status of the object of the dispute back to its original state as undivided inheritance property.

The crucial aspect that is the focus of this discussion is the legal act before a Notary/PPAT on December 2, 2017, in which the transfer of rights back to the SHM resulting from the division occurred. The fact that is very surprising from a legal perspective is that on that date, Mr. S was declared deceased (September 28, 2017). Theoretically, an authentic deed requires the presence of the parties as a form of physical manifestation of the agreement. If one of the parties has died but his name is still listed as the party carrying out the legal act (signing the deed), then the deed is absolutely null and void (*nietig van rechtswege*). This is because the requirements for a valid agreement as regulated in Article 1320 of the Civil Code, especially regarding agreement and capacity, cannot be fulfilled by a deceased legal subject.

The implications of the invalidity of the deed extend to the legal standing of the Land Office (Co-Defendant II) in registering the transfer of rights. This decision confirms that land registration based on a legally flawed deed does not provide legal protection for the rights holder, even though the land registration system in Indonesia adheres to a negative publicity with a positive tendency. The cancellation of the certificate is a logical consequence when the judge declares that the basis for the transfer of rights is invalid. As a legal consequence, new certificates issued after the deaths of W and S must be declared legally ineffective, and the control of the land by Defendant I is categorized as control without a valid legal basis.

The author views Decision 70/Pdt.G/2018/PN Surakarta as an important precedent regarding the responsibility for the accuracy of data in the preparation of SKW. The Defendants who provided false information in the SKW have destroyed the entire legal structure built on it. In civil law, this gives rise to the Plaintiff's right to demand a restoration of the situation (*restitutio in integrum*).

The cancellation of the deeds related to this dispute is a form of civil sanction aimed at eliminating all legal consequences that have arisen from the unlawful act, so that the legal position of the wronged heirs can be fully restored according to the inheritance portion stipulated by law.

Viewed from the procedural perspective at the Land Office, the cancellation of this land right requires Co-Defendant II to delete or cancel the record of the new rights holder and return it to the status quo or adjust it to the court decision. This is in accordance with the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancelling Rights to State Land and Management Rights. The administrative legal flaw that began with the false heir statement caused all certificate products issued afterward to be stillborn products, which although they appear formally valid, are fragile and can be revoked at any time if the material truth is revealed in court.

Apart from that, this cancellation also has consequences for protecting the interests of third parties. Even though in this case the dispute occurred within the family's internal scope, the legal principle remains the same: that legal protection is only given to buyers or rights holders who have good intentions. Because Defendant I and Defendant II are parties who know the exact position of family law but still manipulate data, they are parties with bad intentions. The legal consequences of this inheritance dispute ensure that distributive justice for all heirs (including the Plaintiff and Co-Defendant I) takes priority over ensuring the formality of certificates obtained by unlawful means.

The legal consequences of the cancellation of deeds due to inheritance disputes in Decision Number 70/Pdt.G/2018/PN Surakarta is the collapse of the legal domino. Starting from the cancellation of the legitimacy of the inheritance statement, spreading to the cancellation of the transfer of rights deeds before the PPAT, until finally leading to the cancellation of the legal force of the land certificate in question. This decision reminds legal practitioners, especially Notaries and PPAT, to be more rigid in validating legal subjects, especially regarding heirs, so as not to create legal products that are later declared legally flawed because they eliminate the absolute rights (*legitieme portie*) of other heirs.

An application for cancellation of rights due to the enforcement of a legally binding court decision can be submitted directly to the Minister or the Head of the Regional Office or through the Head of the Land Office. In this case, during the initial registration process, there was a wrong subject factor that led to a prolonged land dispute because the land was inherited by one party, but another party had registered the land and obtained a certificate even though they were not the legal heirs to the disputed land.

In the event that the plaintiff succeeds in proving that the authentic evidence which is the basis for issuing the certificate is legally flawed, so that the evidence

is canceled and the certificate is canceled by the judge, the registration of rights and certificates that have been issued automatically become null and void by law and the National Land Agency as a co-defendant will be ordered to cancel the certificate and delete the registration of rights in the name of the defendant.

The results of the researcher's analysis related to Decision No. 70 / Pdt.G / 2018 / PN Skt resulted in legal disputes in the cancellation of deeds due to inheritance disputes over land ownership. The cancellation of an authentic deed (such as a Deed of Joint Distribution of Rights / APHB) or a land title certificate by the court is a legal action that has broad implications for ownership status. In the context of inheritance disputes, cancellation usually occurs due to legal defects in the issuance process, such as the removal of the rights of legitimate heirs. Legally, if the judge in his decision declares a deed "Void by Law" (Nietig van Rechtswege), then the deed is considered never to have existed from the beginning. All legal relationships born from the deed are severed. If the deed becomes the basis for changing the name of the land certificate at the land office, then the certificate loses its legal basis (rechtsmittele). Generally, deeds are cancelled due to "Unlawful Acts" (Article 1365 BW), for example, one of the heirs claims the inherited land by falsifying the inheritance information or not involving the other heirs.

After the court decision has permanent legal force (Inkracht Van Gewijsde), the status of the land undergoes a change in legal status. Restitutio in Integrum (restoration of rights) means the status of the land must be returned to its original condition before the revoked deed/certificate was issued. In inheritance cases, the land returns to being Undivided Inherited Assets belonging to all legal heirs according to the judge's decision. The party whose name is listed in the revoked deed loses their exclusive right to control, sell, or pledge the land. They return to being one of the heirs (if they are indeed an heir) or not the owner at all (if they are not an heir).

Inherited land that has been transferred to a different name is often unilaterally sold to a third party or used as collateral for a bank loan (mortgage). This is achieved through the application of the principle of Nemo Plus Iuris, a legal principle that states that a person cannot transfer rights beyond what they own. If the seller acquires land through a legally flawed (void) deed, the buyer automatically loses legal rights. However, Indonesian law (through SEMA No. 4 of 2016) protects buyers in good faith. If a third party purchases the land through official procedures (PPAT), verifies the authenticity of the certificate at the BPN, and is unaware of any dispute, then their ownership can still be protected. In this situation, the injured heirs can usually only demand material compensation from the selling heirs, not repossession of the land.

A legal analysis of deed cancellations due to inheritance disputes shows that the law provides protection to the true rights holder (legal heir) through a mechanism for canceling all legal products arising from procedural flaws. The legal consequences are not only private (loss of ownership rights) but also

administrative (changes to land data) and can impact third parties, unless good faith can be demonstrated in accordance with applicable law.

Furthermore, in addition to the legal consequences in the civil and land administration realms, the series of actions that formed the basis for the transfer of rights in the a quo case also need to be reviewed from a criminal law perspective. This is important because the dispute is not solely related to the legal consequences of the cancellation of the deed and certificate, but also stems from the existence of documents containing information regarding the composition of the heirs that does not correspond to the actual situation. In this case, the Certificate of Inheritance (SKW) dated May 23, 2016, only lists two children as heirs, whereas based on the revealed facts, there are other heirs who legally have the status of heirs. This information was then used in the series of land rights transfer processes and became part of the basis for the change of ownership and registration of land rights. This situation raises further legal issues regarding whether the act of making, entering, or using such false information can also be examined from the perspective of the crime of document forgery as regulated in Article 391 of Law Number 1 of 2023 concerning the Criminal Code.

From a criminal law perspective, Article 391 of Law Number 1 of 2023 essentially regulates the act of falsely making or falsifying a letter that can give rise to a right, obligation or debt relief, or which is intended as evidence regarding something, with the intention of using or asking another person to use the letter as if its contents were true and not falsified, if its use can cause harm. This provision also includes the act of using a letter whose contents are false or falsified as if it were true or not falsified if its use can cause harm. Therefore, when linked to the a quo case, the existence of a SKW containing a composition of heirs that does not correspond to the actual situation can be an object of study from the perspective of Article 391 of Law Number 1 of 2023, as long as it can be proven that there was intent in making or using the letter and that there was an intention and consequence that fulfills the elements of a criminal act as determined in the provision.

However, the presence of false information in a document cannot necessarily be concluded as a criminal act of forgery. To determine whether or not the elements of a crime are fulfilled, further analysis is needed regarding the party who made or provided the information, the party's knowledge of the actual condition of the heir, the existence of an element of intent, the purpose of using the letter, and the consequences that arise for the rights of other parties. Thus, in the context of this research, the act is more appropriately analyzed as an alleged or potential criminal act of forgery of documents, not as a proven crime, considering that Decision Number 70/Pdt.G/2018/PN Skt is a decision in the realm of civil law and not a criminal court decision.

3.3. Inheritance Deed Made Through a Notary

Islamic law has a unique inheritance system characterized by bilateral individual arrangements. This system not only emphasizes individual ownership of inherited property but also requires distribution across two distinct lines, reflecting descent through male and female relatives. The underlying principle is to ensure that the inheritance process adheres to the principles of justice and equality among heirs. This includes protecting the rights of both male and female relatives, reinforcing the bilateral nature of inheritance distribution.¹³

Through the interpretation of QS An-Nisa verse 11, it is stated that the share of men is twice as large as the share of women, because women receive property from their husbands and parents. Therefore, comparing two shares with one share is not an absolute calculation that is considered unfair, but rather a balance of rights between men and women. Placing equal shares means both receive inheritance, while the amount of the share is determined by God's rules. The provisions in Islamic inheritance law are rules of God's law that must be obeyed. If the heirs have received their respective shares, then they have the right to manage it. If they want to give their share to another heir, according to Islamic law, it is permissible and this term is called peace (takharuj).

The results of the research analysis related to Decision Number 70/Pdt.G/2018/PN Skt touch on fundamental aspects of Islamic Law, namely regarding the fairness of inheritance distribution (tirkah) and the protection of neglected heirs' rights. Although this case was decided in the District Court (which usually uses the Civil Code/BW), if the parties are Muslim, the analysis of the Islamic Law perspective (Faraid) becomes very relevant as a material scalpel. In Islamic Law, the transfer of assets from the testator to the heirs occurs automatically by law (ijbari) from the moment of death. Islamic juridical analysis views inheritance disputes usually occur due to violations of the principles, namely the Principle of Ijbari, the Principle of Bilateralism and the Principle of Balanced Justice. In Decision Number 70/Pdt.G/2018/PN Skt, the court annulled the certificate because it was proven that the rights of the heirs were exceeded. From an Islamic perspective, the judge's decision functions as:

1) *Raf'ul* Mistake

The judge's decision aims to end the dispute and return rights to those entitled to them.

2) Determination of Legal Heirs

The judge verifies who is included in the warits category and ensures that no one is wearing the hijab (majhub) illegally.

¹³Zainudin Ali. 2010. Implementation of Inheritance Law in Indonesia, 2nd Edition. Jakarta: Sinar Grafika.

Based on the perspective of Islamic Law, the cancellation of inherited land rights in this dispute is a form of law enforcement against the rights of Allah (portion faraid) and the rights of fellow human beings (heirs). Land ownership in the canceled certificate is considered invalid because it is flawed from the intention and procedure (elimination of other inheritance rights), so that the land must be returned to its status as undivided inheritance property to be distributed according to the provisions of the KHI (Compilation of Islamic Law). In Decision Number 70/Pdt.G/2018/PN Skt, unilateral control of SHM by one child is considered legally flawed.

Based on Islamic law, the heir who holds the certificate or manages the inherited land is considered a Trustee. If he changes the name of the certificate to his own name without going through the legal inheritance distribution procedure (takhrij), then he has committed Ghashab (controlling the rights of another person unjustly). Because the SHM was issued or controlled based on incorrect information (ignoring the existence of two other heirs), the legal status is:

1) Procedural Defects

The land registration violates the principles of inheritance because it does not involve all heirs.

2) Cancelable

The District Court (in this case) or the Religious Court has the authority to cancel the legality of the SHM so that it is returned to its original status as inherited land.

The ownership of a SHM by one child in the inheritance dispute in Decision No. 70/Pdt.G/2018/PN Skt is contrary to the principle of justice in Islamic Law. Under Islamic law, the SHM does not reflect the material truth of ownership. Therefore, the cancellation of the certificate is a legal protection measure to restore the rights of the other two children so that the inheritance distribution can be carried out according to the portion of 2:1 (if mixed) or equally (if of the same type).

The distribution of inheritance from the perspective of Islamic Law in Indonesia is materially guided by the Compilation of Islamic Law (KHI). In the context of the dispute in Decision Number 70/Pdt.G/2018/PN Surakarta, the main principle that must be upheld is the fulfillment of the pillars of inheritance, namely the existence of an heir, heirs, and inheritance (tirkah). Normatively, Article 171 letter (c) of the KHI emphasizes that heirs are people who have blood relations or marital relations with the testator, are Muslim, and are not prevented by law from becoming heirs. An in-depth analysis of this case begins by identifying the purity of the heir's status to ensure that no rights are neglected (sharih) before the conversion of land rights is carried out at the land office.

If we look at the composition of the distribution, Islamic Law stipulates very specific portions through the Faradh system. If the heir leaves behind sons and

daughters, then the 2:1 principle applies, as stipulated in Article 176 of the Compilation of Islamic Law, where sons receive twice the share of daughters. However, if the daughter is an only child, she is entitled to half ($1/2$) of the estate, and if there are two or more daughters without any sons, they share two-thirds ($2/3$). This provision is fixed (*dzawil furud*) and is the basis for mathematical calculations in determining whether the determination of heirs that is the basis for the cancellation of land rights in this case reflects Islamic justice or is actually legally flawed.

In the consideration of Decision Number 70/Pdt.G/2018/PN Surakarta, there is a discrepancy between the facts on the ground and the administrative documents submitted to the Land Office. Islamic law strictly prohibits the taking of another person's property in a wrongful manner, including by manipulating inheritance information. Article 188 of the Compilation of Islamic Law states that heirs can agree to make peace in the distribution of inheritance after each is aware of their share. Without willingness or agreement (*ishlah*), the act of changing the name of the inheritance land certificate to only one party without considering the quota of other children, for example, setting aside the rights of a female child who should receive a certain share, is an unlawful act which has implications for the nullity of the administrative action.

An analysis of Decision Number 70/Pdt.G/2018/PN Surakarta shows that the judge attempted to explore the material truth regarding who actually had the right to the disputed object. In Islamic law, the concept of *hijab* (barrier) is recognized, where the presence of closer heirs can close or reduce the share of more distant heirs. However, in the relationship between children and parents, nothing can hinder a child's right to inherit (*hajib hirman*). Therefore, if the facts of the trial prove that there are legitimate heirs who were not involved in the process of preparing the Certificate of Inheritance (SKW), then the distribution of assets is flawed according to sharia and directly impacts the validity of the land certificate issued based on the inaccurate data.

It is important to understand that the 2:1 share for sons and daughters is not simply a number, but rather a form of financial responsibility imposed on men by Islam. However, in notarial and land practice, ignorance or deliberate negation of the rights of one party often triggers lawsuits for annulment. Referring to inheritance shares, if the testator leaves only children without a wife (for example, if the wife has died first), then all assets become the rights of the children as *ashabah* (recipients of the remainder). If this share is violated by concealing the identity of the heirs in land documents, then this fulfills the element of *mala fides* (bad faith) which undermines the sanctity of the authentic deed that should serve as the basis for land registration.

If the provisions of Islamic inheritance law as regulated in the Compilation of Islamic Law (KHI) are applied purely to the object of the dispute in Decision Number 70/Pdt.G/2018/PN Skt, then the first step that must be taken is to conduct

a precise identification of all heirs of the deceased testator (W and S). Based on the facts of the trial that revealed the manipulation of heir data, the determination of legitimate heirs according to Islamic law must include all biological children, both male and female, without any unilateral exclusion. In the construction of Islamic law, the position of all biological children is as *ashabah* heirs (recipients of the remaining assets) which closes the opportunity for other heirs who are more distantly related (such as the testator's siblings) to receive a share, unless there are *dzawil furud* heirs such as widows or widowers who are still alive.

Furthermore, regarding the composition of inheritance distribution, Article 176 of the Compilation of Islamic Law (KHI) serves as the primary normative reference in determining the portion of each heir. Considering that the heirs in this case consist of a son and a daughter, the principle of *li al-dzakari mitslu hadhz al-untsayain* applies, namely that a son's share is twice that of a daughter. The implementation of this calculation requires that assets previously registered in the name of one party unlawfully be returned to their status as undivided assets (*tirkah*). Technically, the total inheritance must be divided based on the number of units, where each son is counted as two units and each daughter is counted as one unit, thus creating a proportional distribution that meets the sense of justice in Islamic law.

Based on the legal facts revealed in the trial regarding the family tree of the heirs (the deceased S and the deceased W), the identification of the legitimate heirs according to Islamic law (KHI) consists of four biological children, namely: JTP (Plaintiff I), RDA (Defendant I), SWM (Defendant II), and DP (Co-Defendant I). From the perspective of Islamic inheritance law, the five biological children are the heirs of the *ashabah bi al-ghair*, where they jointly spend the entire remaining inheritance after deducting the heir's debts.

The implementation of inheritance distribution refers to Article 176 of the Compilation of Islamic Law (KHI): "If there is only one daughter, she gets 1/2 of the share, if there are two or more people, she gets 2/3 of the share together, and if there are daughters together with sons, then the son's share is two to one with the daughter's share." Considering that the composition of the heirs consists of two sons (SWM and DP) and two daughters (JTP and RDA), the principle applies that men receive twice the share of women (2:1) with the following calculation steps: number of shares: 2 sons x 2 shares = 4 shares, 2 daughters x 1 share = 2 shares, Total = 6 shares, so that the distribution of the Heirs' portions is: share of Son I (SWM) = $2/6 = 1/3$ or 33.33%, Son II (DP) = $2/6 = 1/3$ or 33.33%, Daughter I (JTP) = $1/6$ or 16.67%, Daughter II (RDA) = $1/6$ or 16.67%.

The application of the composition confirms that the unilateral control of the disputed object by Defendant I (RDA) through the issuance of a certificate in his personal name constitutes a clear violation of the rights of other heirs according to the provisions of *faraid*. By returning the status of the disputed land to undivided inheritance, the distribution based on the proportion of 2:1 must be

carried out in order to restore the material rights of the Plaintiffs and ensure that the distribution of wealth within the heir's family runs in accordance with the corridor of Islamic law applicable in Indonesia.

3.4. Construction of Draft Deed of Heirs

The procedure for issuing and preparing a draft of the Deed of Inheritance Rights by a Notary begins with a crucial pre-deed-making stage, namely conducting a legal investigation into the existence or absence of a will made by the testator during his/her lifetime. Before the Notary proceeds to signing the deed of inheritance, the Notary is obliged to conduct an electronic Will Register Check with the Ministry of Law (Kemenkum) of the Republic of Indonesia through the Public Service System of the Directorate General of General Legal Administration (AHU Online). This search aims to track whether the testator has ever registered a will, whether in the form of a general will, a secret/closed will, or a holographic will deposited with the Notary. The output of this process is the issuance of a Will Statement Letter (SKW) from the Ministry of Law and Human Rights which serves as the initial legal basis to ensure that the composition of heirs according to law is not set aside or changed by the testator's last wishes.

After the Will Certificate from the Ministry of Law and Human Rights is issued and confirms the absence of a will (or confirms the existence of a will that forms the basis for distribution), the Notary has an objective basis to begin the pre-construction stage of drafting the inheritance deed. The Notary's authority to draw up this Deed of Inheritance Rights is derived expressly from the provisions of Article 15 paragraph (1) of Law Number 30 of 2004 concerning the Position of Notary in conjunction with Law Number 2 of 2014 (UUJN), which affirms the Notary's authority to draw up authentic deeds regarding all acts, agreements, and determinations required by statutory regulations or desired by the interested parties. In the land context, this Notary's authority is strengthened and specifically clarified in the national land registration regulations as one of the public officials authorized to issue inheritance proof instruments that have complete evidentiary power for the purposes of changing the name of land rights at the Land Office.

Viewed from the perspective of national land law, the position of the notary's deed of inheritance is positioned absolutely in relation to the registration of transfer of rights due to inheritance. Based on the provisions of Article 111 paragraph (1) letter c of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 16 of 2021 concerning the Third Amendment to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, it is explicitly regulated that proof as an heir for registration of transfer of land rights can be in the form of one of 6 (six) forms of legal instruments. The six forms of proof include: 1) Will from the testator; 2) Court decision; 3) Decision of the judge/chief of the court; 4) Declaration of heirs made

by the heirs witnessed by two witnesses and acknowledged by the Village Head/Lurah and Sub-district Head where the testator resided at the time of death; 5) Certificate of inheritance rights from a notary who is domiciled at the place of residence of the testator at the time of death; and 6) Certificate of inheritance from the Estates Office (BHP).

4. Conclusion

The conclusion of this study is that the legal status of the Land Ownership Certificate (SHM) which was canceled by the court due to an inheritance dispute as stated in Decision Number 70/Pdt.G/2018/PN Skt, has lost its binding legal force and no longer functions as a perfect proof of ownership. That the existence of the Land Ownership Certificate (SHM) as a strong proof of land ownership is revoked if the issuance process is proven to contain legal defects, either in the form of administrative errors or manipulation of heir data. Legally, the cancellation of the certificate by a court decision that has permanent legal force (*inkracht*) results in the certificate losing its function as a strong proof of rights, so that the status of the land automatically returns to being an undivided inheritance (*boedel waris*) belonging to all legitimate heirs. Administratively, the National Land Agency is obliged to follow up on the decision by deleting it from the land book and withdrawing the physical certificate so that it is no longer circulating in the community. That the legal consequences of the cancellation of land rights have legal consequences, the cancellation of the deed that is the basis for the transfer of rights due to inheritance disputes has consequences for the collapse of all accompanying legal acts or *nietig van rechtswege*. These deeds are considered to have never existed from the beginning because they violate the subjective and objective requirements for the validity of the agreement, especially because of the element of false information regarding the legal subject. Based on the principle of *nemo plus iuris*, anyone who obtains rights from the defective deed does not have legal legitimacy, so the court carries out restoration of rights (*restitutio in integrum*) to return the portion of the heirs' inheritance in accordance with the provisions of the law, in addition, if the false information in the document that is the basis for the transfer of rights is proven to have been made or used intentionally and meets the elements of a criminal act, then the act can also be examined from the perspective of the criminal act of falsification of documents as referred to in Article 391 of Law Number 1 of 2023 concerning the Criminal Code. In the context of inheritance distribution in relation to the analysis of the justice of inheritance distribution based on Islamic law, this case confirms the Faraid principle that inheritance is the collective right of all heirs according to the portion determined by the text (*Al-Qur'an* and *KHI*). The act of unilateral control or the removal of the names of other heirs in the land certification process is categorized as an act of *Ghashab*, which is prohibited by sharia because it seizes the property of others in a wrongful manner. Therefore, the distribution of inheritance after the verdict must be based on the principle of proportional justice, namely the status of the property: all disputed objects must be re-inventorized as net inheritance

after deducting debts or funeral costs and the provisions of the portion: Referring to Article 176 of the Indonesian Islamic Law (KHI), sons and daughters act as *ashabah* with a distribution ratio of 2:1. This distribution is absolute and cannot be reduced for the administrative interests of certain parties without the voluntary agreement (*ishlah*) of all heirs. The construction of an ideal draft of a Deed of Inheritance Rights made by a Notary and which has the status of a preventive legal instrument must be built on a pre-draft process that complies with the principles, based on the authority of a legitimate Notary (Article 15 UUJN), and fulfills the qualifications of Article 111 paragraph (1) letter c number 5 of the Regulation of the Minister of ATR/Head of BPN No. 16 of 2021.

From the above conclusions, the researcher's suggestions include: for the disputing parties (heirs), it is recommended to prioritize the values of deliberation and consensus (*ishlah*) in the distribution of inheritance assets in accordance with the proportions of Islamic law (KHI) in order to ensure legal certainty and avoid prolonged litigation conflicts. Transparency in disclosing all legitimate heirs is the main key in preventing legal defects that can harm the constitutional rights of heirs in the future. For the Government, in this case the National Land Agency (BPN), it is necessary to improve the principles of accuracy and caution in the land registration process by strengthening material verification of the documents that form the basis for the transfer of rights. Data synchronization between the land information system and population data (SIAK) is an urgent need to ensure the validity of the heirs' genealogy in the Certificate of Inheritance (SKW), so that the practice of manipulating or removing the identity of heirs can be minimized from the administrative stage. Legal practitioners, particularly notaries and land deed officials (PPAT), are expected to implement stricter Know Your Customer (KYC) principles in identifying parties to prevent involvement in unlawful acts that could potentially invalidate deeds in the future. For the general public, it is crucial to proactively monitor assets inherited from the testator and promptly take preventive legal action if any indication of unilateral transfer of rights is found without involving all entitled heirs. Through synergy between the administrative accuracy of government agencies and the good faith of the heirs, it is hoped that the integrity of land registration can be maintained and similar disputes can be avoided in the future.

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