



Factors Hindering the Settlement of Inherited Land Disputes Due to Forgery of a Will Through the District Court

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Abstract This research aims to identify the inhibiting factors in the settlement of inheritance land disputes caused by forgery of wills through the district court. The research uses an empirical method by analyzing interview data and a copy of case number 44/Pdt.G/2011/PN.Gtlo. The inhibiting factors are grouped into two, namely internal factors originating from the disputing parties, and external factors originating from outside the disputing parties, especially from the court. Internal inhibiting factors included the lack of witnesses, lack of good faith, lack of understanding from the parties, chaos in the trial, and lack of evidence. While external inhibiting factors include a lack of legal certainty and a shortage of Human Resources (HR) in handling land dispute cases. The results showed that legal uncertainty and lack of human resources on the part of the court had a significant impact on the process of resolving inheritance land disputes. Therefore, it is suggested that there should be improvements in the judicial system, an increase in the number and quality of human resources in the courts, as well as efforts to increase legal certainty in the handling of inheritance land dispute cases involving forged wills.

Keywords: Religious Court; Settlement of Inherited Land Disputes.

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How to cite (Chicago Style) :

Sidik, M., Kasim, N.M, Kamba, S.N.M."Factors Hindering the Settlement of Inherited Land Disputes Due to Forgery of a Will Through the District Court" Estudiante Law Journal 5, no. 3 (Oktober, 2023): 754-762

1. Introduction

With the death of a person, there is a discussion related to inheritance issues between heirs, which is related to the transfer of property left by someone who dies and has certain consequences for those who get it. Therefore, a person who is still alive cannot distribute his property to the heirs (children, husband/wife, parents) on the basis of inheritance, because such a gift can be categorized as a grant, or gift. Civil disputes occur when the rights of one party have been reduced or eliminated so that the aggrieved party claims his rights through the intermediary of a judicial institution or better known as the litigation route. This will not be a problem when the settlement is concise with less cost than the material value of the disputed case. However, in reality, case settlement sometimes requires a lot of money so that it can hamper the financial development of the parties involved.¹

According to the Civil Code as the legal basis for the inheritance law system based on Western Civil Law, one important aspect is determined, namely that the heirs can also be prevented from becoming heirs so that they are not entitled to inheritance.² Abdulkadir Muhammad explained that, although the heir is entitled to inheritance, he is not entitled to receive inheritance from the testator if he commits an improper act against the testator (Article 838 of the Civil Code). According to Article 838 (4) of the Civil Code Those who have embezzled, damaged or falsified the will of the deceased, is a rule that explains the removal of the right to inherit. The provisions of Article 838 of the Civil Code which regulates the nullification of the right to inherit due to embezzlement, destruction and forgery of wills will refer to the provisions of Article 263 of the Criminal Code (KUHP) which reads: "Whoever forges or falsifies a document, which may give rise to a right, an agreement (obligation) or a release of debt, or which may be used as a testimony for an act, with the intention of using or causing others to use the document as if it were genuine and unfalsified, if the use of it may result in a loss, shall be punished for forgery of document, with imprisonment for a maximum of six years".³

The settlement of inheritance land disputes is not only factual (*das sein*), but also normative (*das solen*), given the existence of legal norms governing the rights and obligations of the parties to the dispute. Obstacles to the settlement of inherited land disputes can come from two main sources, namely internal factors arising from the disputing parties and external factors originating from outside the disputing parties. In this context, it is important to understand that the existence of obstacles in the

¹ Hartawati Hartawati, Elvi Susanti Syam, and Tarmizi Tarmizi, "Pembuatan Surat Wasiat Terhadap Ahli Waris Dalam Masyarakat," *Journal of Lex Generalis (JLG)* 3, no. 9 (2022): 1557-69.

² Rahmatin Triyunda, "PERTANGGUNGJAWABAN PIDANA AHLI WARIS YANG MENJADIKAN HARTA WARISAN SEBAGAI JAMINAN KREDIT TANPA PERSETUJUAN AHLI WARIS (Studi Putusan Pengadilan Negeri Metro Nomor 121/Pid. B/2021/PN. Met)" (Fakultas Magister Hukum, Universitas Islam Sumatera Utara, 2023).

³ Nadra Khalizah Siregar, "Tinjauan Permasalahan Catat Waris Di Badan Pertanahan Nasional Pematangsiantar," n.d.

settlement of inheritance land disputes will result in delays and obstacles in the settlement process.⁴

2. Method

The type of research used is empirical-normative research with a qualitative approach, namely data collection from combining normative sources such as interviews and observations. Empirical research is used to analyze laws that are seen as patterned community behavior in community life, and always interact and relate in social aspects.⁵ While normative research is used in examining and understanding legislation and understanding the implications of positivizing general principles of good governance in government administration, based on the observation of an experience, which is stated by respondents in writing or orally from real behavior. With an analytical and case approach, where the author tries to find out the meaning contained in legal provisions based on the description and norming in legal practice, namely analyzing decisions to get answers to problems.⁶

3. Factors Hindering the Settlement of Inherited Land Disputes Due to Forgery of a Will Through the District Court

In a dispute resolution, of course, it will face obstacles that can affect the settlement process, these factors are divided into 2 types, namely internal factors and external factors, as for the types of obstacle factors referred to according to the respondents, among others:⁷

1. Internal Factors

a. Lack of witnesses

The obstacles regarding the witnesses needed to make the inheritance case clear are minimal. This situation makes it difficult to prove that the disputing party is entitled or not to the disputed inheritance because most witnesses are old or have passed away. So it is necessary to establish a family recording system or family information center that can be accessed by family members. In this system, information on family relationships and inheritance data can be well documented, facilitating the collection of relevant evidence, considering forensic approaches in proving kinship relationships. Authorities can work with forensic experts to identify scientific evidence that

⁴ Govinda Dewantara, "PENYELESAIAN SENGKETA TANAH MASYARAKAT YANG DIKUASAI OLEH PEMERINTAH PROVINSI DKI JAKARTA YANG DIGUNAKAN UNTUK KEPENTINGAN UMUM (Studi Kasus Pengadilan Negeri Jakarta Timur No. 219/Pdt. G/2017/PN Jkt Tim)," *Skripsi Fak. Hukum Lulusan Tahun 2021*, n.d.

⁵ Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).

⁶ Ishaq Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi* (Alfabeta, 2017).

⁷ Sufirman Rahman and Askari Razak, "Penyelesaian Sengketa Tanah Terkait Kepemilikan Hak Atas Tanah Di Kecamatan Tamalanrea," *Journal of Lex Theory (JLT)* 3, no. 2 (2022): 116–27.

can support family claims related to inheritance.⁸ Engage local governments to formalize and document family records at the village level. This can serve as an accessible reference source for parties involved in inheritance disputes. And encourage the parties involved to detail family records, such as places of residence, family photos, and family history records that can serve as strong evidence.

b. Good Faith

The low level of participation by the disputing parties in the process of resolving the inheritance land dispute, for example, one of the parties did not fulfill the invitation to attend the trial, citing lack of time or one of the parties did not want to be reunited with the other party. To gather the heirs at the same time was difficult because they had their own busy schedules, so the trial took a very long time. The parties conducting the trial should pay more attention to important matters that are considered not influential, such as attendance at the trial, because if it is due to the presence of the litigants at the trial, especially for those who feel their rights have been harmed. The non-attendance of litigants in a trial that has been officially and properly summoned, can be considered as their lack of seriousness to defend their rights.⁹

c. Lack of Understanding of the Parties

In a trial, it is necessary to understand the situation and be able to understand what is discussed in the ongoing trial, so that when there are disputing parties who lack understanding, the other party must explain again until they can be understood at that time.

The parties to this dispute are not a few who lack understanding, not only the lack of understanding but also the neat way of dressing, what to behave like in court, so they do things that are prohibited in the trial such as using sandals, using shorts, in the trial it is not justified, so there are delays caused by those who do not know how to dress in participating in the trial. It is better to provide basic understanding to parties who have a lack of understanding of the case, such as explaining what rights are demanded by the plaintiff, how the trial should run, providing a little education related to the articles related to the ongoing case, and providing an understanding of how to dress properly in attending a trial. This is usually done by the attorney concerned but it does not rule out the possibility for other parties fellow litigants to explain this.

d. Chaos in the Trial

⁸ Nelson Bilung, "Peranan Tokoh Adat Dalam Penyelesaian Sengketa Tanah Ulayat Di Desa Long Temuyat Kecamatan Kayan Hulu Kabupaten Malinau Provinsi Kalimantan Utara," *E-Journal Ilmu Pemerintahan* 8, no. 4 (2020): 15–28.

⁹ Miftahuljannah Sidik, Nur Mohamad Kasim, and Sri Nanang Meiske Kamba, "Faktor-Faktor Yang Menghambat Penyelesaian Sengketa Tanah Waris Akibat Pemalsuan Surat Wasiat Melalui Pengadilan Negeri," *Depositi: Jurnal Publikasi Ilmu Hukum* 2, no. 1 (2024): 64–76.

It is not uncommon for parties who feel the most righteous and powerful over the object of dispute, do not want to give in, do not want to surrender the object of dispute, defend and fight, so that the trial is chaotic and cannot run properly. So that the security in the courtroom always repeatedly reprimands and until there are parties who are expelled from the courtroom because they create chaos which results in the trial being suspended. A legal education and awareness program for the parties involved in the dispute is recommended.¹⁰ With a better understanding of the legal process, it is hoped that the parties will be more open to amicable solutions. Ensure that security personnel on duty in the courtroom are professionally trained to handle chaotic situations. They should have good communication skills and be able to manage conflicts tactfully.

e. Lack of Evidence

In terms of evidence, the land deed has strong evidentiary value because it is made in the presence of a land deed official, namely the sub-district head. However, this land deed can also not have perfect evidentiary power even though it is made by a deed-making official, because it does not meet the requirements as a deed. The requirements and documents that need to be prepared by the heirs in making a land deed are as follows, namely the death certificate of the testator and photocopies of KK and KTP of all heirs.

The process of making a land deed takes place at the Kelurahan Government Office, then the Head of the Village will gather and invite all the heirs concerned, this is necessary so that it can be known about the inheritance of the heir (deceased/almarhumah) as well as the identity data of all heirs who are also equipped with the death certificate of the heir.

The evidence carried out by the party committing forgery is considered too convoluted by the opposing party, because the party committing forgery seems to insist that the evidence he brings is valid by relying on a forged will, but in the will it is not noted that the date of signing the will is February 14, 1983 while the testator or SM's mother died on September 8, 1976 and is proven by the local RT / RW certificate. In this proof there are irregularities that can be seen from the statement of the defendant, the making of land deeds that do not meet the requirements but the land deed can be issued. In this case, the sub-district head who made the land deed should be asked to testify so that it is clear why he was able to issue the land deed even though the conditions for making it were not met.¹¹

2. Lack of legal certainty

¹⁰ Rahman and Razak, "Penyelesaian Sengketa Tanah Terkait Kepemilikan Hak Atas Tanah Di Kecamatan Tamalanrea."

¹¹ Novi Alvionita, Kurnia Warman, and Zefrizal Nurdin, "Penyelesaian Sengketa Uang Kompensasi Atas Tanah Ulayat Nagari Melalui Lembaga Adat Di Nagari Talu Kabupaten Pasaman Barat," *UNES Law Review* 6, no. 1 (2023): 360-74.

a. Lack of legal certainty

Because there is a hierarchy of courts in Indonesia, namely the District Court, High Court and Supreme Court where if the District Court gives a decision that does not satisfy one of the parties, the party can appeal to the High Court or cassation to the Supreme Court so that it takes a relatively long time to be legally binding. It is recommended to reform the judicial system to speed up the legal process, especially at the appeal and cassation levels. Improving efficiency in case handling at the Court of Appeal and Supreme Court could reduce the time taken to reach a final decision. Conduct a review of appeal and cassation procedures to identify processes that can be streamlined or changed to make them more efficient without compromising the rights of disputing parties. Implement a system that allows for continuous case resolution at the High Court and Supreme Court levels. This could help address the issue of legal uncertainty that arises when a case proceeds to the appeal and cassation levels.¹²

b. Lack of human resources

Basically, judges must understand all types of law. However, if the dispute occurs in a field that is not mastered by the judge, then the judge must learn again. This is because the parties cannot choose the judge who will examine the case. Of course this will complicate the preparation of a fair decision in accordance with the field of dispute. Judges must also not refuse to examine a case because the law is absent or unclear. So there should be no judge who refuses a case, especially just because he/she does not master the field of dispute. A regular and ongoing training program should be established for judges to improve their understanding and skills in various areas of law. This capacity building could include current and complex legal issues that judges may not fully understand. Establish multidisciplinary teams consisting of judges, legal experts and other relevant professionals to handle cases involving certain specialized areas. These teams can provide a holistic viewpoint in the decision-making process.¹³

Other external factors originating from outside the district court include:

1. High costs. High costs can be an inhibiting factor for interested parties to resolve disputes through the district court. This may lead the parties to choose to settle the dispute out of court.
2. Long time. The dispute resolution process through the district court can take a long time. This can make parties impatient and choose to settle disputes out of court.

¹² Muh Nasir, "ANALISIS HUKUM TENTANG PENYELESAIAN SENGKETA TANAH SECARA MEDIAS OLEH KANTOR PERTANAHAN KOTA GORONTALO," *AkMen JURNAL ILMIAH* 13, no. 2 (2016).

¹³ Ade Siti Nurjanah, "Konfigurasi Pembatalan Perkawinan Dengan Alasan Pemalsuan Identitas Di Pengadilan Agama Sleman Perspektif Kompilasi Hukum Islam Dan Uu No 1 Tahun 1974," 2022.

3. Lack of good faith. Lack of good faith on the part of the parties can hinder dispute resolution. This can occur because of the interests that each party wants to achieve.
4. Lack of evidence. Lack of evidence can hamper the evidentiary process in court. This can make it difficult for judges to decide cases fairly.¹⁴

To overcome these inhibiting factors, efforts are needed from various parties, including the district court, the parties concerned, and the wider community. The following are some of the efforts that can be made to overcome the inhibiting factors in the settlement of inheritance land disputes due to forgery of wills through the district court:¹⁵

Efforts on the part of the district court

- 1) Improve the quality of human resources. District courts need to improve the quality of human resources, both in terms of number and quality. This can be done by providing training and continuing education to judges, clerks and court staff.
- 2) Simplify administration. District courts need to simplify convoluted administration. This can be done by implementing a more modern and efficient administrative system.
- 3) Improve facilities and infrastructure. The district courts need to improve adequate facilities and infrastructure to support the dispute resolution process.

Efforts from interested parties

- 1) Realizing the importance of fair and legal dispute resolution. Interested parties need to realize the importance of fair and legal dispute resolution. This can be done by increasing understanding of the law and the dispute resolution process.
- 2) Willingness to reconcile. The parties need to be willing to reconcile. This can be done through mediation or arbitration.

Efforts from the wider community

- 1) Increase legal awareness. The wider community needs to increase legal awareness. This can be done by educating the public about the law.
- 2) Creating a conducive climate for dispute resolution. The wider community needs to create a climate conducive to dispute resolution. This can be done by avoiding actions that can complicate dispute resolution.

¹⁴ Ahzaza Fahrani, Benny Djaja, and Maman Sudirman, "Kepastian Hukum Terhadap Pemegang Hak Milik Atas Tanah Atas Penerbitan Sertifikat Ganda," *UNES Law Review* 6, no. 1 (2023): 3507–15.

¹⁵ Indri Laras Sundari, "Status Penguasaan Tanah Sempadan Pantai Oleh Masyarakat Di Pesisir Pantai Ujong Blang Lhokseumawe," *Locus Journal of Academic Literature Review*, 2023, 97–116.

With these efforts, it is hoped that the settlement of inheritance land disputes due to falsification of wills through the district court can run more smoothly and obtain justice for the parties concerned.¹⁶

5. Conclusion

Based on field research, it can be concluded that this study describes the inhibiting factors in the settlement of inheritance land disputes due to falsification of wills through the district court. The inhibiting factors can be divided into two main categories, namely internal factors originating from the disputing parties and external factors involving the role of the district court. Internal factors include lack of witnesses, lack of good faith, lack of understanding of the parties, chaos in the trial, and lack of evidence. Meanwhile, external factors consisted of a lack of legal certainty and a shortage of human resources within the court. From the results of the research, it can be concluded that legal uncertainty and lack of human resources are the main obstacles in the settlement of inheritance land disputes through the district court. Lack of witnesses, lack of good faith, limited understanding of the parties, chaos in the trial, and lack of evidence also complicate the settlement process.

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¹⁶ Saofan Iswandika, "Perilaku Hukum Masyarakat Muslim Kota Mataram Dalam Pembagian Waris: Studi Di Kelurahan Abian Tubuh Baru Kecamatan Sandubaya" (UIN Mataram, 2020).

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