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Universitas Tarumanagara, Indonesia,

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THE POSITION OF SUCCESSOR HEIR ACCORDING TO THE NATIONAL HEIR LAW

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Abstract: *Inheritance law is part of family law and is also part of the scope of Indonesian Civil Law therefore regulates the procedures for the distribution of inheritance and provisions that are prohibited and allowed in the process of inheritance and not a few disputes arise due to this inheritance event. The problem raised in this study is inheritance with successor heirs. This study aims to find out more about the distribution of inheritance to successor heirs. The research method used is a normative research method using the Legislative Approach and the Legal Concept Analysis Approach. The legal source used is the literature research method. The concept of changing heirs has been regulated in Articles 841-848 of the Indonesian Civil Code. In addition, the KUHPer also recognizes 3 (three) kinds of replacements, changes in a straight line down, changes in a line to the side, and changes in a line to deviate up. The advice given is that it is better in the distribution of inheritance to successor heirs to pay close attention to the provisions that regulate so as not to have a deposit against the applicable law.*

Keywords: *civil inheritance law, testator, successor heir, estate*

INTRODUCTION

Inheritance is one of the things that can cause polemics among a family. The same is true in Indonesia. Inheritance is also a very easy thing to find. So to regulate everything about inheritance in Indonesia, a regulation was formed that regulates inheritance, called the Law of Inheritance. Inheritance Law is any legal arrangement that regulates the transfer of inheritance from the testator due to death to the heir or designated person (Abdulkadir, 2017; Andayani et al., 2019). The law of inheritance is closely related to the scope of human life, because every human being will inevitably experience a legal event called death (Masut & Saron, 2022). The legal consequences arising from the occurrence of a legal event of death of a person include the problem of how to manage and continue the rights and obligations of a person who becomes an heir (Amanat, 2021; Craig, 2010). This death event is the cause of inheritance as stated in Article 830 of the Civil Code (hereinafter referred to as the KUHPer) that inheritance only occurs due to death (Suparman, 2017).

Basically, everything that will be left behind by the deceased can be called a legacy. Inheritance is not only in the form of wealth, but also includes debt receivables owned or left by the deceased during his life (Eleanora & Sari, 2019; Hanawalt, 2007). The heir as the owner of the property, is to have the absolute right to regulate whatever is desired for his property. This is a consequence of inheritance law as a governing law (Suparman, 2017).

Inheritance law occurs when an event occurs which is a legal event and is commonly called death (Luawo & Amalia, 2019; Redi & Antasari, 2022). If there is a legal event, namely the death of a person causes his immediate family to lose someone he may love very much while also causing legal consequences, namely about how to continue to manage the rights of the obligations of someone who has died. There are many problems caused in an inheritance. For example, if an heir dies before the heir, the problem that will arise is how the transfer of inheritance will occur. Where it is known that the heir is the only heir owned by the heir. Article 841 of the Indonesian Civil Code recognizes the existence of a successor heir in an inheritance, which entitles the successor to act as a successor, in the degree and in all rights of the person being replaced. Looking at Article 841 of the Indonesian Civil Code, it can be seen that there are recognized successor heirs without any restrictions, but when referring to Article 843 of the Indonesian Civil Code, it is stated that there is no change in blood families in the line up. If viewed in both articles, it can clearly be seen that there is a conflict between Article

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841 of the Indonesian Civil Code and Article 843 of the Indonesian Civil Code. In addition, Article 832 states that blood relatives are included in the group entitled to receive inheritance.

The general purpose of this study is to find out more about successor heirs in inheritance when viewed from the KUHP.

MATERIALS AND METHODS

The research method used is a normative research method using the Legislative Approach and the Legal Concept Analysis Approach.

RESULTS AND DISCUSSION

Event and Classification of Inheritance According to the Civil Code

Civil inheritance law is known to have two ways in which a person obtains inheritance rights, namely inheritance according to the Act (*Ab Intestato*) and inheritance *testamentair* (will) (Sjarif & Elmiyah, 2018). There are two ways of acquisition under the Act, namely self-inflicted (*uit eigen hoofed*) and indirect inheritance or by replacing (*bijplaatsvervulling*) is to inherit for the deceased before the testator. He succeeds the heir who has died before the testator. *Uiteigen hoofed* based on Article 852 paragraph (2) of the Indonesian Civil Code where the right is his own, inheriting head by head means that each heir receives an equal share. Thus, if included in the category, there are four major groups entitled to inherit, namely: 1) Children, or their descendants and living wives (husbands); 2) Parents (father and mother) and siblings of the testator; 3) Grandmothers and grandfathers, or other ancestors in a straight line up (Article 853 of the Indonesian Civil Code); and 4) Relatives in a line to the side to the sixth level (Article 861 paragraph 1 of the Indonesian Civil Code).

This class of heirs is determined sequentially, meaning that if from the first group, they are the ones who jointly have the right to inherit all the estate of the heir. If there are no family members from the first group, then the people included in the second group are entitled to be heirs. If there are no family members from the second group, then people belonging to the third group are entitled to inherit. If all these groups do not exist, then those who belong to the fourth group in stages are entitled to inherit. If all these groups no longer exist, then it is the State that inherits all the property left by the heir.

Division of inheritance against successor heirs in civil inheritance law

The subject of inheritance law is the testator and heir (Tsybulska et al., 2019), the heir is someone who dies, both male and female who leaves a number of assets and rights obtained along with obligations that must be carried out during his life, either by will or without a will while the heir is a deceased family member who replaces the position of the testator in the field of wealth law due to the death of the testator.

According to Article 832 of the Indonesian Civil Code, the heirs are blood relatives, both legal and extramarital, and the husband or wife who lives the longest, according to the following regulations. If blood relatives and the longest-living husband or wife are absent, then all the estate becomes the property of the state, which is obliged to pay off the debts of the deceased, so long as the price of the estate is sufficient for it (Subekti & Tjitrosudibio, 2019).

Based on Article 852a of the Indonesian Civil Code, which is divided into four classes of heirs, namely:

- 1) The first group, families in a straight line down, includes children and their descendants and husbands or wives who are abandoned or who live the longest;
- 2) The second group includes the parents and siblings of the heir, both male and female, and their descendants. For parents there is a special rule that guarantees that their share will not

be less than 1/4 (one-quarter) part of the estate, even if they inherit jointly with the testator's siblings;

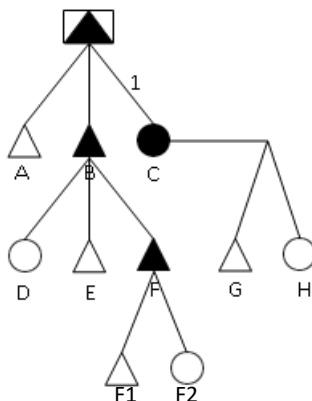
- 3) The third group, including grandparents, and subsequent ancestors above of the heir; and
- 4) The fourth group, includes family members in the line to the side and other relatives up to the sixth degree.

Heirs on a succession basis (*plaatsvervulling*) in this case are called indirect heirs. The word *Plaatsvervulling* in Dutch means Change of place, which in inheritance law means replacement of heirs. The institution of succession of heirs aims to provide legal protection to the legitimate descendants of heirs who have died before the heir by transferring the rights of the heir to his legitimate descendants. Inheriting indirectly or inheriting due to replacement (*plaatsvervulling*) basically replaces the position of heirs who have died before the heir is regulated in Articles 841 to 848 of the Indonesian Civil Code.

According to the KUHPer, 3 (three) kinds of place replacement (*Plaatsvervulling*) are known, namely:

- 1) Replacement in a downward bending line, i.e. the substitution of a person by his descendants, with no limit, as long as his descendants are not declared onwaardig or refuse to accept inheritance (Article 842). In all cases, such a change is forever permissible, both in cases where several deceased children inherit together, with each other in families of varying degrees.

Scheme:



Information:

P: Heir

A, B, C: Child of P

D, E, F: Child of B (Deceased), grandson P

G, H: Child of C (Deceased), grandson of P

F1, F2: Child of F (Deceased), grandson B, great-grandson P

Share of each heir: The estate is divided by 3. A, B, and C get 1/3.

A: $1/3 = 6/18$

F2: $1/18 = 1/18$

F1: $1/18 = 1/18$

D: $1/9 = 2/18$

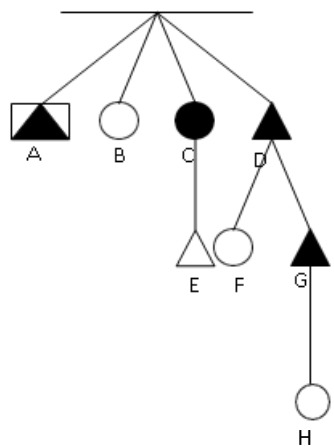
G: $1/6 = 3/18$

E: $1/9 = 2/18$

H: $1/6 = 3/18$

- 2) Replacement in the side line (*zijlinie*), in which each of the deceased's siblings, both siblings and half-siblings, if they died first, is replaced by their children. Also this replacement is made indefinitely (Art. 853, jo. Art. 856, jo. Art. 857).

Scheme:



Information:

- A = Heir
- E = Child of C
- B, C, D = Brothers
- A, F, G = Child of D
- H = Child of G
- C, D, G = Predeceased from A

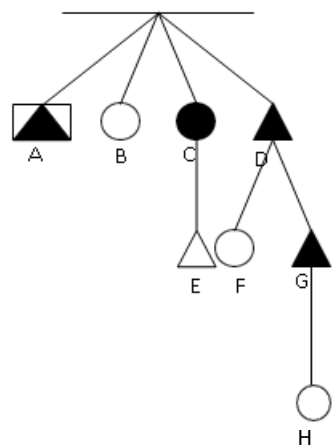
In this case the inheritors are E (replacing C), F (replacing D), and H (replacing G) to acquire property from D. The share of each heir:

$$B : 1/3 = 2/6F : 1/6 = 1/6$$

$$E : 1/3 = 2/6H : 1/6 = 1/6$$

- 3) The replacement in the sideways line deviates in the case of grandparents both paternal and maternal ones, then the estate is inherited by the fourth group, namely the paternal and maternal uncles. This inheritance can also be succeeded by his descendants up to the sixth degree (Article 861).

Scheme:



Information:

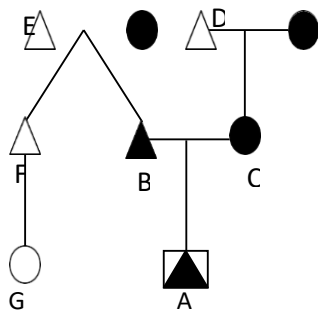
- A = Heir
- B, C = Father and mother have died before A
- D, E = Paternal and maternal siblings
- F, G = Child of E
- H = Child of G

So who inherits D, F (replacing E), and H (replacing G) to acquire property from E. Share of each heir:

$$D = 1/2 = 2/4F : 1/4H : 1/4$$

In the case of receiving the inheritance from the heirs of class I can close the II group, the II group can close the III group, and the III can also close the IV. It means that the heirs of the people who are closer to joining the heirs of the more distant group.

Scheme:



Information:

A = Heir

B, C = Father and mother

A, D = Father of C (from mother A)

E = Father of B (of father A)

F = Brother B

G = Child F

The property is divided in half, 1/2 for the paternal side and another 1/2 for the maternal side. The share of each heir, namely D : 1/2 and E : 1/2. F and G do not get a cause covered by E, because E is the heir of group III which closes the heirs of group IV namely F and G.

CONCLUSION

The position of successor heirs according to their class is regulated in book II of the Civil Code. In Civil Inheritance Law, there are two ways of inheritance, namely inheritance according to the Law (*Ab Intestato*) and inheritance by will (*testamentair*). There are two ways of acquisition based on the Law, namely because of oneself (*uit eigen hoofed*) and indirect inheritance or by replacing (*bijplaatsvervulling*) is inheritance based on succession, namely inheritance where heirs inherit in place of heirs who are entitled to receive inheritance who have died first.

The distribution of inheritance to successor heirs is known as 3 procedures for division, namely: 1) Substitution of a straight line down whose division has been regulated in Article 842; 2) Substitution in a sideways line whose division is provided for in Article 853, jo. Article 856, jo. Article 857; 3) The alternation in the line deviates sideways whose alternation is provided for in Article 861. So that all changes in inheritance have been regulated in the KUHP. The successor heir should also be aware that if he is appointed as a successor heir, it means that he will receive all the existing shares that should have been given to the real heir, but that is not all he should look out for. But also in terms of obligations must also be accepted by the successor heir, because it is the setatus who replaces the real heir. People involved in an inheritance, should always pay attention to the applicable provisions so that no problems arise in an inheritance. Also, in the case of inheritance with the change of heirs, can also pay close attention to the provisions that have been regulated in the KUHP.

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