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Judges' Consideration On Decision Number 582/PDT.G/2019/PN.JKT.TIM Related Legitieme Portie From The Perspective Of The Civil Law Regarding The Division Of Inheritance

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ABSTRACT

Purpose: The research aims to determine which comes first and is the higher heir according to law or will on the legal basis of the District Court Judge's Decision Number: 582/PDT.G/2019/PN.JKT.TIM between JM, who sued FN, FTN, AR, and JK. In her case, as the fifth child of the heirs, plaintiff/JM demanded a fair and equitable distribution of inheritance for all the heirs, both sons and daughters, where it turned out that the inheritance was only for daughters in the will. For this reason, this study aims to analyze (1) the basis for Decision Number: 582/PDT.G/2019/PN.JKT.TIM and determine (2) which heir takes precedence based on a will or law.
Methodology: The research method used was descriptive analysis, with a normative juridical approach, i.e., library research conducted on secondary data.
Results: The study concluded that the consideration of the judge's decision rejected the lawsuit because the lawsuit contained formal defects, was unclear or obscure (*obscuur libel*), and was unacceptable (*Niet Onvantkelijk Verklaard*). The selection of heirs based on a will must take precedence by winning the contents and distribution in a will, which is not against the law. The legal consideration is because the will is the testator's last will, but it still conflicts with the absolute portion of the legal property of the testator.
Application of this study: This study provides input to readers to better know and understand the rights of heirs in Indonesian laws and regulations.
Novelty/Originality of this study: There is a need for outreach to the community, especially couples who are

getting married and notaries or related parties, in the event of a purchase or transfer of movable or immovable property which can be inherited.

Keywords: *Legitime Fortie; Civil law; Inheritance*

ABSTRAK

Tujuan: *Penelitian bertujuan untuk mengetahui ahli waris yang lebih dahulu dan lebih tinggi menurut hukum atau ahli waris menurut wasiat, dengan dasar hukum Putusan Hakim Pengadilan Negeri Nomor: 582/PDT.G/2019/PN.JKT.TIM antara JM, yang menggugat FN, FTN, AR, dan JK. Penggugat/JM, dalam perkaranya sebagai anak kelima ahli waris, menuntut adanya pembagian harta waris yang adil dan merata bagi semua anak ahli waris yang meninggal, baik putra maupun putri, yang ternyata dalam wasiat, harta peninggalan hanya untuk anak perempuan. Oleh karena itu, penelitian ini bertujuan untuk menganalisis (1) dasar putusan Undang-Undang Nomor: 582/PDT.G/2019/PN.JKT.TIM dan mengetahui (2) manakah yang didahulukan antara ahli waris berdasarkan surat wasiat atau ahli waris berdasarkan undang-undang.*

Metodologi: *Metode penelitian yang digunakan adalah deskriptif-analisis, dengan pendekatan yuridis normatif, yaitu penelitian kepustakaan yang dilakukan terhadap data sekunder.*

Temuan: *Penelitian ini menyimpulkan bahwa pertimbangan putusan hakim menolak gugatan karena gugatan mengandung cacat formil, tidak jelas atau kabur (obscuur libel), dan gugatan tidak dapat diterima (Niet Onvantkelijk Verklaard). Pemilihan ahli waris berdasarkan wasiatlah yang harus didahulukan dengan memenangkan isi dan pembagiannya dalam suatu wasiat yang tidak bertentangan dengan hukum. Pertimbangan hukumnya adalah karena wasiat merupakan wasiat terakhir dari ahli waris tetapi tetap bertentangan dengan pembagian mutlak dari ahli waris yang sah.*

Kegunaan: *Studi ini memberikan masukan kepada pembaca untuk lebih mengetahui dan memahami hak-hak ahli waris dalam peraturan perundang-undangan di Indonesia.*

Kebaruan/Originalitas: *Perlu adanya sosialisasi kepada masyarakat, khususnya pasangan yang akan menikah dan kepada notaris atau pihak terkait, dalam hal terjadi*

pembelian atau pemindahtanganan barang bergerak atau tidak bergerak yang dapat dijadikan warisan.
Kata kunci: *Legitime Fortie; Hukum Perdata; Pewarisan*

INTRODUCTION

One day people will certainly die and generally leave an inheritance. To prevent conflicts between heirs, a rule or legal regulation is required. One of the legal instruments that regulates is the Civil Code. According to this law, the process of transferring assets from the testator to his heirs must be based on marital relations (Pradoto, 2014) and blood-family relations with their characteristics, i.e., since the death of the testator, the heirs can immediately ask for inheritance division or separation (Moeccthar, 2017, p. 6).

The Civil Code views the right to inherit as a material right to the assets of a deceased person (Article 528 of the Civil Code) and the right to inherit as a way to obtain property rights (Meliala, 2019). The relationship between civil inheritance law and family law is very close. Therefore, in studying inheritance law, it is also necessary to study related inheritance law systems, such as the family system, inheritance system, method of inheritance, and others. The family system in civil inheritance law is a bilateral or parental family system in which, in this system, descendants are traced from both the husband and wife's sides (Suwarni, Budiartha, & Ariani, 2020, p. 2). In addition, the inheritance system regulated in civil inheritance is an individual system, with individual heirs or individually and heirs who are not distinguished by both men and women with equal inheritance rights.

When someone dies, the legal relationship does not necessarily disappear because the parties left behind are not merely people or objects but the life and death of a person directly affect the interests of various other community and family members which need to be maintained and resolved (Oemarsalim, 2012, p. 1). In principle, only legal rights and obligations in property or objects can be inherited.

Inheritance in Indonesian law adheres to an individual system, the inheritance must be immediately distributed, and each heir can control or own the inheritance according to their respective portions. In civil inheritance law, the principle applies that if a person (heir) dies, his rights and obligations immediately transfer to his heirs according to the law as long as these rights and obligations are included in the property law or other fields. The feature of the civil inheritance law system that is different from other inheritance law systems is that the inheritance

of the heirs must be distributed to those entitled to the assets as soon as possible (Labetubun & Fataruba, 2016, p. 2).

If the heir's inheritance is to be left undivided, it must be through the heirs' approval. The difference between distributable estate and total estate is that the first has not been reduced by debts and other costs, while the latter has been reduced by debt and is ready to be divided (A. Ali, 1984, p. 7).

The law designates as heirs the blood relatives of the husband/wife who are still alive. The transfer of inheritance to legal blood relations of the deceased husband/wife is determined based on the provision that the portion of the property that must be given is to the heirs in a straight line as the owner of the property, who has the absolute right to arrange what he wants for his property.

The legal system also provides guarantees and protection against arbitrary acts on the assets of people who have died and determines who is entitled to these assets (Kansil, 1995, p. 143). It is a consequence of inheritance law as a regulatory law. Heirs with absolute rights over the unavailable part of the inheritance are called legitimaries heirs. Meanwhile, the part that is not available from the property, the part that cannot be determined otherwise by the heir (Kie, 2011, p. 255), and the inheritance, which is the right of the legitimaries heirs, is called *Legitieme portie* (Rudito, 2015, p. 2).

Thus, *Legitieme portie* rights are the rights of legitimaries heirs to the unavailable part of the inheritance. According to the law, the share of the inheritance is the part and property that must be given to the heirs in a straight line, against which the person who dies may not determine anything (Sibarani, 2015, p. 1).

In civil inheritance law, there are two ways to obtain inheritance. First, the provisions of the law or *Wettelijk Erfrecht* or *Ab intestate* are the heirs who have been regulated in the law to get a share of the inheritance because of family or blood relations with the deceased. Second, a testament or *Testamentair Erfrecht* is the heir appointed or determined in a will left by the deceased (Pitlo, 1979, p. 112).

According to the law (*Ab Intestato*), heirs are due to their position according to law, who are guaranteed by law to appear as heirs, whereas according to a will (*Ad Testamenter*), heirs are those who appear because of the "last will" of the testator, which is then recorded in a will (testament). Heirs who appear according to a will or *testamentair erfrecht* can go through two ways: *Erfstelling,* which means the appointment of one/several people as heirs to get part or all

of the inheritance, while the person appointed is called *testamentair erfgenam* (Sjarif, 1982, p. 14), which is then recorded in the will. In a second way, *Legaat* (bequeathed grant) is the granting of rights to someone based on a special testament/will, where the person who receives the *legaat* is called a legatee (Adisiswanto & Maghfuroh, 2022, p. 2).

In this regard, the case for the District Court Decision Number 582/PDT.G/2019/PN.JKT.TIM is the heir to the late Alm. Mrs. Ros (mother of Plaintiff Ms. JM, the last unmarried child of five siblings (four daughters and one son)) made a notarized inheritance agreement stating that all inheritance was given only to four daughters. However, in reality, the inheritance was controlled by the only male child, whose name was not listed in the will of FTN. The plaintiff filed the lawsuit against his three sisters and one brother. The plaintiff's lawsuit asked the court to decide that the will made by the heir of the late Mrs. Ros before a notary is valid and legally binding. The will contents gave an inheritance to four daughters without any share for the heir's sons, and the plaintiff asked the judge to decide on the distribution of inheritance evenly for Alm Mrs. Ros's five children, both girls and boys.

Which takes precedence, heirs according to the law or a will? There are many principles and legal basis for inheritance distribution. Knowing and understanding the true meaning of these principles and foundations, the distribution of inheritance to the entitled heir is likely to achieve fair results (Amanat, 2001, p. 1). In the implementation of civil inheritance law, heirs according to a will are preferred, with exceptions, as long as the contents and distribution in the will do not conflict with the law (Wowor, 2020, p. 1). The legal consideration is that the will is the "last will" of the testator to his inheritance, with the provision that it is not detrimental to the heir's share according to the law. It is because the heir, according to the law, has an absolute part (*Legitieme portie*), which is regulated in Article 913 of the Indonesian Civil Code, whose part cannot be violated at all. In addition, if the will or grant from the testator violates the provisions on the absolute portion of the legitimaries heirs, the deduction can be made.

As stated above, heirs with an absolute share are also called legitimate, i.e., heirs who are blood relatives in a straight line up and down ("Legitieme Portie Hak Mutlak Ahli Waris Menurut Hukum Waris Barat," 2012). It denotes that the will can be executed as long as the heir whose portion is specified in the will does not prejudice the absolute share of the legitimaries heirs. Even if the absolute share of the legitimaries heirs is harmed by the *testamentair* heirs, it must be returned to the legitimaries heirs in accordance with the portion they should have received.

Based on this elaboration, the problem formulation in this research is how the judge decides the case in Decision Number 582/PDT.G/2019/PN.JKT.TIM. related to *Legitieme portie* from the perspective of the Civil Code regarding inheritance distribution. Thus, this research aims to analyze how the judge decides Case Number 582/PDT.G/2019/PN.JKT.TIM regarding inheritance distribution with the provision of absolute rights in the Civil Code.

Based on the results of a search of various previous literature and research related to the title of this study, several similar studies were found but differed in the focus of the problem. The papers were used as a reference in the research of this article.

The first is research by Anastasia Tamara Tandery et al. entitled *Execution of the Absolute Rights of Heirs Against Wills/Testaments that Deviate from the Legitieme portie Burgelijk Wetbook (BW) Provisions* in 2020. This research focused on discussing wills/testaments as implementing provisions of the testator's will. In this case, the testator is fully entitled to his inheritance, which is why the testator also has the right to share his assets with the heirs according to his wishes according to BW inheritance law (Tandery, Sompie, Zina, & Pihang, 2020).

The second study by Niluh Gede Suwarni et al. with the title *Distribution of Inheritance in Review from the Civil Code* in 2020, focused on how to distribute inheritance correctly based on the Civil Code and how to resolve issues of inheritance distribution problems to heirs outside the court or in a non-litigation manner (Suwarni et al., 2020).

Meanwhile, the difference between this research and the two previous studies is that this research focused more on examining the distribution of inheritance to the absolute rights of the heirs, the parts of which have been determined by the Civil Code even though the will determines otherwise. On the other hand, in previous studies at the beginning, there were deviations from the will made by the testator against the existing statutory regulations. The deviation was intended to give a share to another person who was not an heir entitled to receive the inheritance as regulated by law (*ab intestato heirs*), and it can be done by deduction by the heir who is given absolute rights by law. In subsequent research, a division of inheritance of the transfer of rights and obligations of heirs is determined by three ways of making a will and resolving inheritance disputes through non-litigation channels.

RESEARCH METHOD

This research is a type of normative legal research. It is a method based on discovering a principle, norm, code, or legal doctrine to answer the legal issues related to the *Legitieme portie* from the perspective of the Civil Code statute regarding inheritance distribution. In addition, this research model was employed to find answers, truth values, and the best solutions to problems while still paying attention to the principles of legal justice.

This research used two approaches: the statutory approach, i.e., by examining all laws and regulations related to the legal issues encountered and the conceptual approach, starting from the perspective of viewpoints and doctrines developed in the field of law. By studying the doctrines in the science of law, ideas would be found related to principles, norms, codes, or legal doctrines related to the problems encountered in compiling legal arguments to resolve issues related to *Legitieme portie* from the perspective of the Civil Code statute regarding inheritance distribution (Marzuki, 2009, p. 93).

Meanwhile, the legal materials used in this study were data obtained based on literature studies. The technique for collecting legal materials utilized in normative legal research was carried out by studying and collecting the three legal materials: primary, secondary, and tertiary legal materials. Processing or analysis of data on library research in this study was then conducted qualitatively.

DISCUSSION

Inheritance law in Civil Law is a certain part of Civil Law as a whole and is part of property law and, therefore, only rights and obligations in the form and form of assets which are inheritance, which the testator will inherit. Rights and obligations in public law, arising from norms of ethics and decency and derived from family relationships, cannot be inherited.

The Civil Code views inheritance rights as material rights or assets of the deceased, inheritance rights as a way to obtain property rights, and inheritance law as provisions governing whether and how various rights and obligations regarding a person's wealth at the time of death will be transferred to people who are still alive (Prodjodikoro, 1966, p. 8). The fair distribution of inheritance is a legal rule, which is the main thing in the inheritance process (Haries, 2013, p. 31). The Civil Code can also be interpreted as a rule of law that regulates the fate of a person's wealth after death and determines who can receive it (Parinussa, Tjoanda, & Latupono, 2021, p. 4).

The element of coercion contained in civil inheritance law (Yusrolama, 2015, p. 141) is regarding provisions for granting absolute rights to certain heirs over many distributable estates. For *Abintestato* heirs (without a will), certain parts are held by law that must be received by them, i.e., parts protected by law. So close is the family relationship with the testator that the legislators consider it inappropriate if they receive nothing at all (Sibarani, 2015, p. 4). The extent to which legislators determine whether something is regulatory or coercive has been considered for reasons related to family law in connection with, among other things, the will or final will of the deceased.

By law, all the inheritance of the testator (the person who died) falls into the hands of the heirs. The inheritance must be distributed to the heirs according to their respective groups and parts according to the law. The legislation itself divides the class of heirs into four groups, and they are entitled to receive the inheritance. Group I are legitimate children, husband and wife who have lived the longest, including the second wife … and so on (Article 854 in conjunction with Article 852a of the Civil Code). Group II includes parents and siblings, father or mother (Article 854 in conjunction with Article 857 of the Civil Code). Group III is all blood relatives in a straight line, both in the father's and mother's lines, which briefly can be said to be grandparents from the father's side and maternal grandparents (Article 853 of the Civil Code). Finally, group IV covers blood relatives aside to the sixth degree, i.e., cousins from both the father's and mother's sides (Article 858 of the Civil Code).

If a person dies while he leaves much wealth, the inheritance goes to the heirs. In this case, the law clearly regulates that the Group II heir is entitled to receive the inheritance if there is no Group I heir. If there are no Group II heirs, the right to inherit falls to Group III heirs. Also, if there are no Group III heirs, the right to inherit falls to Group IV (Munarif, 2022, pp. 153–154). Nevertheless, the provisions above apply in general in the sense that if the testator has not made a valid decision, this provision excludes the basic principle of *Legitieme portie*, and vice versa; if the testator has made a valid decision, the decision may deviate from the provisions of the law which must take precedence. The valid decision in question is that the testator, during his lifetime, has determined specific conditions for his legacy assets, which will be inherited later. The decision is contained in a will. Hence, when the testator makes a will containing provisions regarding his inheritance, the will must take precedence.

However, the amount of distribution of inheritance based on a will (Subekti, 1977, p. 78) which has been determined, has limitations, i.e., the testator cannot bequeath all his assets, of which

there is a *Legitieme portie*, namely an absolute part that must be given to the heir according to legal provisions governing it. It aligns with Article 913 of the Civil Code regarding *Legitieme portie*, or the share of inheritance according to the law, is the part and property that must be given to the heirs in a straight line according to the law, against which the person who dies may not determine anything good as a grant between living people and as a testament.

Heirs must have absolute and general requirements so that assets can be handed over from the testator to heirs. General requirements include the presence of someone who has died (Article 830 of the Civil Code), heirs left behind, and several assets left behind (Andarsasmita, 1987, p. 152). Fundamentally, people can regulate what will happen to their assets after death. A testator has the freedom to revoke the inheritance rights of his heirs because even though there are provisions in the law that determine who will inherit his inheritance and how many shares each has, they are regulatory and not coercive law.

Questions that will surely arise because of doubts are, for example, if someone makes a will, but the contents are considered unfair by the other heirs. Such thinking arises because a will generally deviates from the provisions of legal inheritance. As mentioned above, inheritance is an act of replacing or continuing the position of a deceased person, which has something to do with property rights. Is all a person's wealth part of the deceased person's inheritance? The answer is not all. What is not part of a person's inheritance includes the right to use and inhabit/place (*gebruik en bewoning*) and use the proceeds/benefit from the land. As long as that right is owned by the testator during his lifetime, according to the law, his right and obligations regarding this fall/end due to death (Articles 1612, 1646, 1651, 1664, and 1813 Civil Code), and the rights and obligations of a person who has agreed are not always transferred to his heirs.

The basis for the District Court Decision Number 582/PDT.G/2019/PN.JKT.TIM is that heirs, according to civil inheritance law, have the right to demand the splitting of inheritance. It is based on Article 1066 of the Civil Code that after the testator dies, his inheritance is open to be divided based on an agreement made by the heirs, and the law determines that the agreement not to share the inheritance is five years after which the heirs can make a new deal (Pitlo & Kasdrop, 1986, p. 17).

In the case of Decision Number 582/PDT.G/2019/PN.JKT.TIM, the heirs who can exercise their rights over the portion protected by the law are called legitimaries, while the part protected by the law is called *Legitieme portie*. Thus, inheritance in which legitimaries are divided into two:

Legitieme portie (absolute part) and *Beschikbaar* (available part). The available part is the portion that can be controlled by the testator, where he may grant it while he is still alive or will it (Patma, Suwarti, & Rumkel, 2021, p. 8). So that people do not easily set them aside, the law prohibits someone during his life from donating or bequeathing his assets to other people by violating the rights of the heirs of the *Abintestato;* therefore, the recipient of the grant must return the assets bequeathed to him in the inheritance to fulfill the absolute share of the heirs (Article 1088 of the Civil Code).

The requirement to claim an absolute portion (*Legitieme portie*) (Sari, 2014, p. 6) is that people must be blood relatives in a straight line. In this case, the position of *garwa* (husband/wife) differs from that of children. Even though after 1923, Article 852 a of the Civil Code equates husbands/wives with legitimate children that they give birth to as a result of legal marriages in accordance with their respective laws (Wardana, 2016, p. 161), husbands/wives are not in a straight line down; they include the line to the side. Therefore, the husband/wife does not have a *Legitieme portie* or is called non-legitimaries. One must be the heir to the *Abintestato*. Seeing these conditions, not all blood relatives in a straight line have the right to an absolute share. Only those who are heirs of the *Abintestato* have the right. They are, even without paying attention to the testamentary testament, are heirs through *Abintestato*.

According to Article 833 of the Civil Code, because of legal provisions, a person automatically obtains property (Sagala, 2018, p. 3), all rights and receivables from the testator, but someone can accept, reject, or consider receiving an inheritance. Therefore, as all the consequences of the sound of this article, all the obligations of the testator, the right to receive an inheritance by requesting registration of the rights and obligations of debts and receivables from the heir, and the right to sue an heir or other heir who controls part or all of the inheritance to which he is entitled to become the responsibility of the heir (Article 834 of the Civil Code) (Boyoh, 2021, p. 3).

Additionally, the rule of law in one country is not the same as in another, especially regarding who is entitled to something and who is entitled to what (Soerjopraktiknjo, 1984, p. 109). The absolute share is for the legitimaries together, where if a legitimary refuses (*vierwerp*) or does not deserve to inherit (*onwaarding*) to obtain something from that inheritance, his share becomes uncontrollable (*werdnietbeschikbaar*) so that other legitimaries will accept the part. Hence, if there are other legitimaries, the absolute share is still reserved for them; only if the

legitimaries demand it, this means that if the legitimaries do so, as long as they do not demand it, the testator still has *beschikkingsrecht* over all his property.

The Civil Code on legitimacy is carried out almost consistently; in various places, expressions such as remembering (*behoudens*) regulations written for legitimacy can be put forward. This statement is consistent with Case Number 582/PDT.G/2019/PN.JKT.TIM, where basically, those entitled to become heirs are people who have blood relations with the testator and the wife/husband of the testator who is still alive when the testator dies. The testator can only seize the rights of heirs by carrying out acts of ownership of assets so that they do not leave assets to be divided as an inheritance. In this statement, the inheritance distribution goes to the Alm children. Mrs. Ros because her husband had already passed away.

Heirs with wills are people called by wills to receive the entire will or an equivalent part thereof. There are several differences between the status of heirs by death and heirs by will (Article 959 of the Civil Code). Inheritance due to death has never been changed (except in the case stated in Article 1022 of the Civil Code). The absolute share is given by law to each heir in a straight line and not to all legitimators together; thus, each holder of an absolute right is freely entitled to relinquish that right or claim it.

Furthermore, legitimaries are heirs by death (Pitlo, 1979, p. 118). For heirs in the descending line, if the testator only leaves one legitimate child, according to Article 914 of the Indonesian Civil Code, the absolute share is ½ (half) of his share according to the law; if leaving two legitimate children, the absolute share is 2/3 (two-thirds) of the portion according to the law of the two legitimate children; meanwhile, if three or more legitimate children are left behind, the absolute share is ¾ (three quarters) of the share of the heirs according to the law, which is the share of the heirs to their inheritance if no grants or testaments can be implemented (Tandery et al., 2020, p. 16). Sons and daughters of people who inherit the common inheritance are entitled to inheritance in the sense that the share of sons is the same as that of daughters (Mahkamah Agung RI, 1961), and the distribution of inheritance according to law recognizes the rights of daughters and the rights sons are equal in inheritance law (Mahkamah Agung RI, 1973).

For heirs in the ascending line, the absolute share, according to the provisions of Article 915 of the Civil Code, is always ½ (half) of the share according to the law. Meanwhile, the absolute share of children out of wedlock that has been recognized (Article 916 of the Civil Code) is always ½ (half) of the portion that was originally accepted as heirs according to the law

(Santoso, Ratna, Christianti, & Fathoni, 2018, p. 8). Heirs who do not have an absolute share or *Legitieme portie* are the husband/wife who has lived the longest and the siblings of the heir. They are not entitled (non-legitimate) because they are in a line to the side. A calculation based on *Legitieme portie* is used depending on whether a grant or statement can be implemented. In addition, the absolute share (*wettelijkerfdeel*) is calculated not only from what the heir had at the time of his death but also from what would have been if the heir had contributed nothing during his lifetime.

Refusal or incompetence of one or several legitimaries heirs does not change the *Legitieme portie* fraction. The free share becomes bigger with the rejection or inappropriateness of one or several heirs. If there are no legitimaries heirs, the free share includes the entire inheritance; in the absence of legitimaries heirs, the testator is free to make decisions on the entire inheritance (H. Z. Ali, 2008, p. 98).

Deductions from what is willed must be made without distinguishing between the appointment of heirs and bequeathed grant unless the testator has stipulated clearly which one should take precedence between the implementation of the appointment of heirs and bequeathed grant. In that case, such a will may not be reduced unless the other wills are sufficient to fulfill the *Legitieme portie*. A person can inherit part or all of his assets through a will so that the remainder is part of the heirs based on the law; thus, giving a potential heir based on a will does not intend to abolish the right to inherit *ab intestate* (H. Z. Ali, 2008, p. 86).

Paying attention to Articles 874, 913, and 929 in the Civil Code, it is clear that legitimaries are heirs or have the position of heirs. Legitimaries are only heirs if they express their rights to their absolute share. What he enjoys because of the reduction is because of the heirs' rights (Article 920 of the Civil Code) (Hadyanto, 2013, p. 185). The demand for reduction or withholding is so that the gifts made by grant or testament are reduced, so they are null and void as long as it is necessary to give legitimacy to what is his right as the heir. This way of thinking can be found in Article 929 of the Civil Code (Subekti & Tjitrosudibio, 1995);

In the legal considerations of Decision Number 582/PDT.G/2019/PN.JKT.TIM, there has been a conflict between the demand that the will be declared valid and legally binding and, on the other hand, the plaintiff also demands that a son named Felix Takas Martahan Napitupulu (Defendant II) was also given inheritance rights. The placement of the defendant against the three other heirs, who are heirs based on the deed of a will, causes the lawsuit to become unclear or vague because the lawsuit does not explain why the three heirs are referred to as the

defendant. The legal considerations mentioned above became the reason for the panel of judges to declare that the plaintiff's claim, in this case, contained formal defects because it was unclear, and because the plaintiff's claim was formally flawed, the subject matter of the case did not need to be considered. The lawsuit was declared inadmissible. Further, the arguments and replies of the plaintiff, as well as the answers and duplications of the defendant along with the evidence presented in the form of letters or witnesses, which were not specifically considered, must be regarded as having been set aside by the panel of judges because they are deemed irrelevant, or the legal interest of proof is no longer need it.

CONCLUSION

Fundamentally, everyone is free to regulate what will happen to their assets after death. The Civil Code regulates that heirs with a will must take precedence with exceptions as long as the will's contents and distribution do not conflict with the law. The legal consideration is because the will is the final will of the testator for his inheritance. The stipulation contained in the will regarding inheritance, Judge Decision Number 582/PDGT.G/2019/PN.JKT.TIM, which considers that the lawsuit is not clear, i.e., the lawsuit legalizes the heir's testament only for daughters as heirs, which is contrary to the claim to legitimize all the heir's children, both written in the will and unwritten deed to get the testator's inheritance as parents. The judge considered the claim unclear and unacceptable per Article 913 of the Civil Code. In this case, the *Legitieme portie* or inheritance, according to the law, is the part and property that must be given to the heirs in a straight line according to the law, against which the person who dies may not assign anything, either as a gift between the living person or as a testament.

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