

## **LEGAL CERTAINTY FOR SUBSTITUTE HEIRS IN THE PROCESS OF RETURN OF LAND CERTIFICATE OF PROPERTY RIGHTS CONDUCTED BY OTHER HEIRS**

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### **ABSTRACT**

In practice, when the replacement heirs wanted to process the transfer of names, the Land Office rejected them, because they had switched to being on behalf of other heirs. The purpose of this study is to find out legal certainty for substitute heirs in the process of transferring the name of a land title certificate carried out by other heirs. The method used in this study is normative juridical research with statutory, conceptual, analytical and case approaches. The results of the study show that legal certainty for substitute heirs in the process of transferring the name of a land title certificate carried out by other heirs is in the form of canceling the transfer of the title certificate which has been carried out by other heirs. This is because the basis for turning over the name of the certificate of ownership of the disputed object is in the form of an inheritance distribution deed based on an unlawful act, where the making of the deed does not involve all legal heirs or violates the absolute share of substitute heirs as stipulated in Article 841 of the Civil Code.

**Keywords :** Legal Certainty, Substitute Heirs, Transfer of Certificate Names

### **INTRODUCTION**

Basically with his death heir so whole treasure legacy switch to all expert heir. it arranged in Article 833 paragraph (1) of the Civil Code state all expert inheritance with itself Because law obtain right owned by on all stuff, everything rights and all receivables from si heir . That is meant expert inheritance is those who have connection blood and si husband or living wife longest. About inheritance according to Civil Code known there are two kinds method For obtain position as inheritance that is on self own (uit eigen hoofed ) and replacement inheritance. As for according Civil Code as has been regulated in Article 841 of the Civil Code until Article 848 of the Civil Code , also in Article 975 of the Civil Code which regulates problem the mention that “ is possible that expert inheritance replacement That in a sassy line to down and in a presumptuous line to side with No differentiate boy and girl ”.

Heir replacement basically is expert inheritance Because replacement namely the people who become expert inheritance because the parents are entitled get inheritance die more formerly from heir , so he come on stage replace it ( Zahari , 2008). Likewise for expert inheritance replacement as meant in Article 842 paragraph (1) of the Civil Code Replacement in a straight line to Under the legal , underway Keep going with gone finally . The practice part public Still think that that person has land and buildings is owner land although certificate right on the land No on the name of the person occupying it land but Still on the name of the person who has died (Melina, 2017). In

fact Lots feeling society \_ calm No register transition right on the land after his parents died . Whereas in Article 42 paragraphs (1) and (2) of the Regulations Government Number 24 of 1997 already explained that expert inheritance obliged For quick register transition right on land Because inheritance about field land existing rights \_ registered and those not registered in 6 months time after his parents died .

It as happened in the case related substitute heirs in the process of transferring the name of the certificate to property rights controlled by one of them expert inheritance that is as happened to Kuyono et al as experts inheritance replacement from Alm. Sadira . Where in matter This when Kuyono et al want return process Name certificate right on land at the Land Office Regency Japan , apparently done rejection by the Land Office Regency Japan, the because Certificate of Freehold No. 52 / Banyumanis area of 5700 m<sup>2</sup>, has switch become on name Sutar as younger brother from Alm . Sadira . The same thing happened to Emir Baramuli as expert inheritance replacement from Arnold Baramuli . However when Emir Baramuli want do transition name at the Makassar City Land Office , the Makassar City Land Office refused application transition Name the with random Property Rights Certificate No. 20180/ Losari on the name Arnold Baramuli , already stated cancelled No apply Again as sign proof of valid Land Rights Because has switch become right owned by on name Mrs. Adolfinia Julius as younger brother from Arnold Baramuli . The same thing happened to Julien Tumbuan as expert inheritance replacement from (Alm) Mercurius Dieky Plants . In matter This when Julien Tumbuan as expert inheritance replacement want return process Name certificate right owned by on land at the Land Office Regency South Minahasa , it turns out done office refusal land the. it because object dispute or treasure inheritance form Freehold title certificate number : 233/ Tawaang Timur/2019 covering an area of 35,480 m<sup>2</sup> already switch become on Wolter Totam's name herbs as younger brother from ( Alm ) Mercurius Dieky Plants .

Description case the give information that expert inheritance replacement No obtain certainty law , where in case the when expert inheritance replacement want return process \_ Name certificate right on land in the Land Office , it turns out done rejection by the Land Office , p the because A certificate of Property Rights has been switch become on Name expert inheritance other . Based on description background behind problem above , then \_ writer formulate problem in study This as following : How legal certainty for replacement heirs in the process of transferring the name of the land certificate property rights exercised by experts inheritance other ?

## RESEARCH METHODS

Type research used in study This is study juridical normative , meaning that study law is carried out with method researching material References or secondary data just . Study This also known as research law literature (Waluyo, 2002). To the problems studied in study this , using approach legislation , approach case , approach conceptual , and approach analytical . (Ibrahim, 2007). Source material law used \_in study law normative , consisting from : Primary legal materials, namely legal materials that are authoritative and binding, secondary legal materials, namely all publication about law which is not is documents official as material the law provides explanation about material primary law , like design law , draft regulation area , results research , results work from circles law ( Marzuki , 2006). Ingredients law tertiary that is giving material instruction nor explanation to material primary and secondary laws , such as dictionary, encyclopedia , index cumulative , and so on . Collection ingredients law done with method identify and inventory rule law positive , research material library ( books , journals scientific reports results research ), and sources material law other relevant with problem studied law . Ingredients existing law collected , next classification ,

selection and confirmation No contrary One each other, for make it easy analysis and construction . Analysis technique material law used \_ in study This that is interpretation grammar and interpretation systematic .

## RESEARCH RESULT

When someone who has right owned by on land died , then start apply law heir . Inheritance law that is governing law about transition treasure abandoned wealth \_ someone who died as well as a result for experts his heir . Article 830 of the Civil Code which states that , " Inheritance only going on Because death ". Transition right on land based on inheritance must registered at the Land Office and letter information expert inheritance become something very important thing Because in registration transition right that will \_ registered at the Land Office is Name expert heirs / names of experts inheritance from heir , about who to be expert inheritance applicable Civil Law applies for heir .

About inheritance according to Civil Code known there are two kinds method For obtain position as inheritance that is on self own ( uit eigen hoofed ) and replacement inheritance (plaatvervulling) . As for according Civil Code as has been regulated in Article 841 of the Civil Code until Article 848 of the Civil Code , also in Article 975 of the Civil Code which regulates problem the mention that " is possible that expert inheritance replacement That in a sassy line to down and in a presumptuous line to side with No differentiate boy and girl ". heir \_ replacement basically is expert inheritance Because replacement namely the people who become expert inheritance because the parents are entitled get inheritance die more formerly from heir , so he come on stage replace it .

In the practice part public Still think If treasure old thing is owned by family they will forever become owned by them and their descendants them , without ignore applicable law. So still found that something family live above existing land and buildings recorded on Name grandfather and great-grandfather those who have long died . Society still think that that person has land and buildings is owner land although certificate right on the land No on the name of the person occupying it land but Still on the name of the person who has died .

Lack of knowledge society about law agriculture and society in general No know will importance certificate land , which can ensure certainty law and certainty right on ground . In fact Lots feeling society calm No register transition right on the land after his parents died . Whereas in Article 42 paragraphs (1) and (2) of the Regulations Government Number 24 of 1997 already explained that expert inheritance obliged For quick register transition right on land Because inheritance about field land existing rights registered and those not registered in 6 months time after his parents died .

One example case related substitute heirs in the process of transferring the name of the certificate to property rights controlled by one of them expert inheritance that is as happened to Kuyono et al as experts inheritance replacement from Alm. Sadira as expert inheritance replacement from late . Sumi Renggik's heir . Where in matter This when Kuyono et al want return process \_ Name certificate right on land at the Land Office Regency Japan , apparently done rejection by the Land Office Regency Japan , p the because Certificate of Freehold No. 52 / Banyumanis dated May 30, 1975, Picture situation : 716 /1975, dated May 10, 1975, area of 5700 m<sup>2</sup>, located in the Village Banyumanis , District Donorojo , Regency Jepara has switch become on name Sutar as younger brother from Alm . Sadira .

The same thing happened to Emir Baramuli as expert inheritance replacement from Arnold Baramuli (father) as stated in the Heir Certificate , Deed Agreement Distribution Inheritance , as well Deed Agreement Distribution Inheritance of the Heirs. However when Emir Baramuli want do transition name at the Makassar City Land Office , the

Makassar City Land Office refused application transition Name the with random Property Rights Certificate No. 20180/ Losari on the name Arnold Baramuli , already stated cancelled No apply Again as sign proof of valid Land Rights Because has switch become right owned by on name Mrs. Adolfinia Julius as younger brother from Arnold Baramuli .

The same thing happened to Julien Tumbuan as expert inheritance replacement from ( Alm ) Mercurius Dieky Plants . In matter This when Julien Tumbuan as expert inheritance replacement want return process Name certificate right owned by on land at the Land Office Regency South Minahasa , it turns out done office refusal land the . it because object dispute or treasure inheritance form Certificate of Property Rights number : 233/ Tawaang Timur/2019 dated 02 July 2019, Letter of Measurement number : 00233/ Tawaang Timur/2019 dated March 23 , 2019 with an area of 35,480 m<sup>2</sup> already switch become on Wolter Totam's name herbs as younger brother from ( Alm ) Mercurius Dieky Plants .

Description a number of case the give information that No there is legal certainty for substitute heirs in the process of transferring the name of the certificate of ownership Because controlled by one expert heir . Where about inheritance according to Article 833 paragraph (1) of the Civil Code determined that expert inheritance with itself Because law obtain right owned by on all stuff , everything rights and all receivables from si heir .

If the author hook up with theory legal certainty according to Jan Michael Otto stated that certainty law require he created regulations general or the rules that apply general , so created safe and serene atmosphere inside society . Certainty law can achieved if situation certain :

Available rules law that is clear ( clear ), consistent and easy obtained (accessible);

Agencies authorities ( government ) implement rules law the in a manner consistent and also submissive and obedient such ;

Inhabitant in a manner principle adapt behavior they to rules the

The judges ( judicial ) are independent and not side apply rules law the in a manner consistent anytime they finish dispute ;

Judicial decision in a manner concrete implemented ;

Certainty law will ensure somebody can do something appropriate behavior \_ with provision in applicable law and vice versa . \_ Without exists certainty law , then a individual No can own something provision raw For operate something behavior . Likewise legal certainty for surrogate heir . Inheritance rights in Civil Code held as after there are people who died with leave inheritance and rights as well as obligations at a time treasure the wealth he left behind will switch by expert still heir alive and people who are still life That entitled accept inheritance the . In Article 847 of the Civil Code has been formulated " no nobody can Act for people who still are life as replacement " . So someone to replace place must Already died because \_ in a manner a contrario means people don't can replace where people are still live and people don't can replace place through people who still alive too.

Basically the switching process rights and obligations as well as treasure riches somebody to expert his legacy , happened only Because death . As formulated \_ in ( article 830) " inheritance only happen Because exists death " . In system law inheritance Civil Code reflect principle kinship with distribution treasure individually because law inheritance in Civil Code adhere individual system where treasure legacy heir who has died already \_ held division . However \_ inheritance will happen after fulfilled conditions these :

There is someone who has died

There is someone who is life as expert heir to be obtain treasure inheritance from heir

There is amount treasure legacy left behind .

Replacement according to Civil Code give rights and obligations to the substitute For Act as replacement . Civil Code there is three type attitude expert inheritance to treasure legacy . Three type attitude the consists from :

Can accept treasure inheritance entirely

Can accept treasure inheritance with condition

Can reject treasure legacy .

Civil Code know two kinds expert rightful heir accept treasure legacies are :

heirs who inherit based on right Alone or inherit direct ( uit eigen hoofde ), are the experts summoned heir \_ For inherit Because position Alone based on connection blood between He with heir ( article 852). Inherit direct in Civil Code divided become four group , namely :

Group I consists from children or all his descendants Good on will Alone nor Because replacement and husband or living wife \_ longer . children \_ or all offspring and husband or living wife longer is expert inheritance class I ( article 852).

Child section The same big with without differentiate is child That man or women and parts husband or wife The same big with part legitimate child . \_

Group II consists from father and mother inherit together relatives and descendants you boy and girl ( article 854 ).

Father's and mother's share inherit together brother , then mom and dad get 1/3, meanwhile you get remainder his inheritance is 1/3. Inheriting father's and mother's share , then they each got 1/2 inheritance . Father's and mother's share will gets 1/4 if He inherit with 2 brothers . Father's and mother's share will gets 2/4 if He inherit together three people or more .

Group III is all family blood in a straight line to top , fine from the father's line as well mother ( article 853). heir \_ closest get part 1/2 with put aside all expert other heirs and divided by two ( cloving ). One piece For family paternal side ie grandpa or grandma and one part For party family mother .

Group IV is you class II and relatives you or family other in one straight line \_ to on class III. Then 1/2 part inheritance become part all family blood in a straight line to top still \_ alive , while 1/2 part other except in Article 858 of the Civil Code which formulates " if No There is you male and female and also not There is family still blood life in one of the lines to top , then half from treasure legacy That become part from family blood in line to top still \_ alive , meanwhile half Again become part from family bloodline to side from line to on other , except the things listed in chapter following ”.

Essence from Article 858 of the Civil Code This if No There is you male and female ( class II), siblings in one straight line \_ to above ( class III), and assets inheritance shared in half, i.e. 1/2 part inheritance ( cloving ) to be part family blood in a straight line to top still live and 1/2 part other become part relatives you in another line with his descendants .

heir \_ Because replacement place or inherit No direct ( bij plaatsvervulling ), is expert heir which is descendants or family blood from heir , which appeared as replacement someone else's place , as if No dead more formerly from inheritor , presumably will inherit ( article 841).

Objective replacement place expert inheritance For give umbrella law to legitimate offspring \_ from expert deceased heir \_ more formerly from si \_ heir with method give fully rights and obligations expert inheritance the to legitimate offspring .

Based on description the so can is known that inheritance ab intestato people can bequeath his treasure in two ways , first based on position himself ( uit eigen hoofde ) and secondly based on replacement place ( bij plaatsvervulling ). Need noticed inside inheritance based on replacement place , that person who replaces place have equal

rights and position with the person in the place replaced . With exists provision inheritance based on replacement place inside \_ The Civil Code also adheres to the principle of “ more family near close possibility more family \_ far ”.

For example heir left two children namely A ( boy ) and B ( girl ), two children This as expert his heir . Heir B dies \_ more Formerly from si heir , while B at the time die He leave children ( grandchildren si heir ). Grandchild si heir Now inherit together with top A treasure inheritance si heir , grandson si heir There is in more 2nd degree Far from A in 1st degree . Whereas according to Basically , members more family \_ near close member more family \_ far . With so , it is possible grandchild si heir inherit together with A and this is deviation on principle family near close more family far . However with exists contained principles in sound Article 841 of the Civil Code , then all become in accordance with exists principle the . Because grandson si heir inherit in rights and status B, so together with an A in degrees to I. The word “ in degrees and deep all the rights of the person being replaced ” stated in Article 841 of the Civil Code , don't interpreted that person who replaces Can get rights and position of the person being replaced , cause He no the one who died Because He Already dead and not Once become expert inheritance from si heir , and no leave right nothing .

The reach of the legal line expert inheritance replacement in Civil Code Article 841 of the Civil Code people can occupy degrees as well as get rights and obligations of the person being replaced . Through replacement place This a grandchild heir can replace position grandfather and one grandchild nephew can replace position you heir and so on . Legal line expert inheritance replacement in Civil Code already set \_ in Article 842 of the Civil Code , formulated replacement that occurred in a straight line to legal bottom going on Keep going without end .

So explanation to Article 842 of the Civil Code is replacement like That allowed , fine when children from the person who died has become expert inheritance together with descendants from children heir who has die more before , nor descendants they inherit together in affinity different families the degree . In chapter This No There is restrictions in a straight line to lower though until to his great-grandson and so on and this based on a straight line replacement place . Even someone to replace own equal standing and he are in a group first and this caused that class second No can obtain right inheritance Because exists replacement place .

Restrictions No poured in Article 842 of the Civil Code course , will but also set in Article 844 of the Civil Code and 845 of the Civil Code . Article 844 of the Civil Code : " In line to side , replacement allowed for profit all children and descendants you men and women who died , either they become expert inheritance together with uncles or aunties them ." Final part from Article 844 of the Civil Code This is repetition from Article 842 of the Civil Code , so inside second chapter This emphasize exists replacement place . As for the replacement place can happened by children from you or more , kids from One you inherit together with other relatives , and grandchildren from you inherit together another brother .

The reach of the legal line in replacement place also inside Article 845 of the Civil Code , which has formulated : " Substitution in a sideways line also allowed in inheritance for nephews , that is when beside family related blood family blood closest with si dead , still There is children and descendants brothers man or Woman from him , which brother have die more first ." In sound Article 845 of the Civil Code this , that is meant with children here No children from class to II, because they Already arranged in Article 844 of the Civil Code so that one possibility replacement place in a sideways line the other is For children or descendants uncle or aunt class heir to IV.

Article 845 of the Civil Code have connection with Article 861 of the Civil Code , as restrictions replacement place in inheritance in a sideways line that has been set Article

861 of the Civil Code there is exceptions , exceptions that have given Article 845 of the Civil Code ie on the side family related blood blood closest with There is children and descendants you man nor Woman from nephew that , brother man nor woman who has die more formerly so children you This as if pulled by his uncle so that in matter This can inherit .

Exceptions the exist in the family closest blood with si heir in a sideways line is in degrees to six , so children from you nephew and brother man nor woman who has die more formerly present in the VIIth degree . From sound Article 845 of the Civil Code has help family blood in a sideways line that is in degrees exceed the sixth degree i.e VIIth degree . from here Already there is clarity that Article 845 of the Civil Code give exception on weakening Article 861 of the Civil Code .

Inheritance replacement place This No allowed there is a line of law in line to on nor to people who still life because basically \_ family blood closest in those two lines every time will put aside all existing family in more degrees far . System inheritance Civil Code famous with A system distribution inheritance 1:1, then every same degree obtain part same inheritance . System inheritance Civil Code use system degrees something group , inside group the there is group First until group to four . Then those who occupy group First will set aside group priority second and group priority second will set aside group priority third and so on , from there groups the will each other hijab .

So can said that in the system inheritance Civil Code No there is exists barrier inheritance from facet groups priority the . Group priority First will obtain inheritance without There is barrier from group priority second that is mothers / fathers and siblings , as well as in group priority third and fourth like grandparents from father and from mother , father/ mother grandparents , great grandparents ' brothers / sisters and great - grandmother 's brothers / sisters also not \_become barrier inheritance for group priority first , because inheritance Civil Code use elaborate system degrees something group .

Principle justice in law inheritance Civil Code between part inheritance received by men and women \_ is The same in rights and obligations ie 1:1 so No There is difference part legacy that has accepted by men with women and law inheritance Civil Code own mark justice is emphasized equality Good man nor girl , so No there is exists difference from both .

Refer to the description the so can said that surrogate heir obtain the same section exactly with part expert successor he succeeded as provision Article 841 of the Civil Code . However in the practice part public Still think that that person has land and buildings is owner land although certificate right on the land No on the name of the person occupying it land but Still on the name of the person who has died .

In fact Lots feeling society calm No register transition right on the land after his parents died . So that raises consequence law for expert inheritance replacement that is changed or disappearance something circumstances law for expert inheritance replacement , in matter This expert inheritance replacement No can do deed law to a plot land inheritance that he has , even though basically surrogate heir obtain part The same exactly with part expert successor he succeeded . This is because \_ expert inheritance replacement No do his obligations For flip name certificate as holder new rights , so \_ done renamed by experts inheritance others and certificates land the changed become on Name expert inheritance other . it \_ as theory consequence law according to Soeroso who stated that legal consequences are something consequence from action taken , for \_ obtain something consequence expected by the offender law . Consequences intended \_ is consequence regulated by law , meanwhile \_ action taken \_ is action law that is appropriate action \_ with applicable law .

Whereas in Article 42 paragraphs (1) and (2) of the Regulations Government Number 24 of 1997 already explained that expert inheritance obliged For quick register transition right on land Because inheritance about field land existing rights registered and those not registered in 6 months time after his parents died . In implementation come back Name certificate right owned by on land naturally own Standard Operational Process (SOP) that can seen in the Cabal Number 1 of 2010. Regarding tax or cost in implementation come back Name listed in Law no. 20 years 2000 about Amendments to Law no. 21 of 1997 concerning BPHTB (Fee for Acquisition of Land and Building Rights ) confirms that “Fee for Acquisition of Land Rights and or Building imposed against the person or entity that obtains it right on land and or building . Acquisition on something right on land and or building This Can interpreted that person or entity have mark more on addition or acquisition right the. Where No everyone has \_ ability more For get land and or building ”.

As is known that For obtain something certificate as proof has done registration land , there some process or which stage \_ must passed namely :

#### Submit Rights Application

Applicant certificate right on land shared into 4 groups , and respectively required fulfil requirements certain among others:

Recipients of Rights, namely the recipients right on state land based letter decision gift issued rights \_ government cq . director general agrarian or appointed official . \_

The Heirs, that is those who receive inheritance land , fine land used right owned by custom or other rights .

The owners land , that is those who have land from buying and selling , grants , auctions , conversions rights and so on .

Owner certificate right lost land \_ or broken .

#### Measurement and Registration of Rights

After whole file application completed and submitted to the Land Office local , then the next process in the office land is measurement , mapping and registration his rights . When measurement , mapping and registration That For First time so This called as base start ( opzet ), whereas when activity That form changes about the land Because merger and/ or separation so activity That called as base maintenance ( bijhouding ). For necessity For the administration of the Land Registration Administration , 4 ( four ) types of lists are used , namely : Land Register , Book List land , Register of letters measure and List of names . For activities measurement , mapping and so on That must announced especially before , and activities the will done after grace time announcement That ends and no There is object from party anywhere . For applicant expert heirs and owners land , the announcement put in the office village and office subdistrict for 2 months . For certificated applicant damaged or gone , the announcement done past letter news local or 2 (two) State Gazette announcements with grace time One month .

In implementation measurement , because actually will established land boundaries so besides owner begging land , necessary \_ present and witness also is owner bordering land \_ with him . Measurement land done by interpreter measure and result will mapped and created letter measure and draw the situation. Up fields land that has be measured the Then set subject rights , then right recorded in the book list land from the village concerned . List book land consists on gathering book bound land , one \_ book land only used For register One right on ground . And each right on already land recorded the given number massage according to type his rights .

#### Publishing Certificate

Stage last done is make copy from book land from rights on land that has booked . Book copy land That along letter measure and draw the situation Then stitched / attached become One with paper cover that has determined government , and results end that's



what then called with later certificate copy submitted to the applicant . With completion of this process so be done certificate proof right on our land please .

Giving certificate stated as results end from activity registration done land government as mandate from Article 19 paragraph (1) UUPA, which aims provide certainty law for the holder. Collateral certainty law covers certainty of registered rights status, certainty subject and certainty object .

Registration land will bring certainty law, p This is because with registration land / registration right on land the will bring consequence he gave letter sign proof right on common land called with certificate land to party applicable as tool strong evidence to right on the land he holds it .

With see explanation on then one group that can do registration land is expert heir . heir is the rightful person get part from the property of the deceased . Transition right on land Because inheritance happen for the sake of the law which means with his death heir so expert his heir obtain right ownership on property and wealth heir .

Transition on right heir in the form of land proven through letter information inheritance made by experts \_ inherited and known or approved by the competent authority . With letter information inheritance the , then done registration at the Land Office local to record in book land about holder new rights that is on Name expert heir , p this is very important done for experts his heir have strength law . But what happened the problem is when land inheritance the Not yet done distribution inheritance However has registered by one expert inheritance whereas if We referring to Article 42 of the Regulations Government Number 24 of 1997 concerning Land Registry , mentioned that :

For registration transition right Because inheritance about field already land registered and rights owned by on unit House stack as required \_ according to provision as meant in Article 36, mandatory submitted by the recipient right on land or right owned by on unit House the corresponding arrangement as inheritance to office land , certificate the right in question , letter the death of the named person noted as holder rights and letters sign proof as expert heir .

If field land which is inheritance Not yet registered , mandatory documents were also submitted as meant in Article 39 paragraph (1) letter b.

If the recipient inheritance consists from one person, then registration transition right the done to that person based on letter sign proof as expert inheritance as referred to in paragraph (1).

If the recipient inheritance more from one person and time transition right the registered accompanied with deed distribution load inheritance \_ information that right on land or right owned by on unit House stack certain fall to a recipient inheritance particular , registration transition right on land or right owned by on unit House stack That done to recipient the inheritance in question based on letter sign proof as expert inheritance and deed distribution inheritance the .”

Inheritance form right on land or right owned by on unit House arrange accordingly deed distribution inheritance must shared together between a number of his heirs , registered transition right to the recipients rightful heir as expert inheritance and/ or deed distribution inheritance the .

Based on provision such , then For transition right on land Because existing inheritance \_ registered referring to Article 36 of the Regulations Government Number 24 of 1997 which reads as following :

Maintenance of registration data land done if happen changes to physical data or juridical data object registration land that has registered .

Holder the rights concerned must register change as referred to in paragraph (1) to the Land Office .

Whereas For transition right on land Because unfinished inheritance registered must submitted arranged documents \_ in Article 39 paragraph (1) letter b Regulations Government Number 24 of 1997 namely :

Proof letter right as meant in Article 24 paragraph (1) or letter information head the village / kelurahan that states that concerned \_ control field land That as meant Article 24 paragraph (2), and

A statement stating that field the land concerned Not yet certified from office land , or For land located in a distant area \_ from position office land , from holder the rights concerned with head strengthened \_ village / kelurahan .

With see provision on so to registration right on unfinished land shared inheritance done registration by one expert inheritance is No allowed in a manner law Because especially must first done is do distribution inheritance between expert proven inheritance with deed distribution load inheritance information that right on land certain fall to a recipient inheritance certain . So that on base That Then expert given inheritance \_ right on land the do activity registration land in the office of the authorized land agency .

Registration land is something activity administration carried out owner to right on land , fine in transfer right or gift and recognition right new , activities registration the give something clarity of status against ground . Activity end from the registration process land will generates a " sign proof right on the so -called land certificate . According to Wantjik Saleh certificate is copy book land and letters measure , the one after bound become One together with One paper cover shape \_ set with Regulation Government .

Whereas according to Regulation Government Number 24 of 1997 concerning Land Registration , certificate is letter sign proof right as intended in Article 19 paragraph (2) letter c which contains juridical data as well as physical data registered object \_ For right on land , rights management , land waqf , rights owned by on unit House stack and rights each other 's responsibilities recorded in book ground .

Strength certificate right on land can seen in provision Article 19 paragraph (2) letter c of the Law tree Agrarian Law (UUPA) which states that “ Gift letters sign proof applicable rights \_ is tool strong evidence ” . The word " strong " in Article 19 UUPA paragraph (2 ) letter c means that \_ during No can proven otherwise by decision court that has have strength law still then the physical data and juridical data listed in certificate must accepted as correct data as long as physical data and juridical data the in accordance with existing data in letter measure and book land the rights concerned . Article 19 UUPA paragraph (2) letter c obtain arrangement more carry on in Article 32 Regulations Government Number 24 of 1997 concerning Land Registration stating that :

Certificate is letter sign proof applicable rights as tool strong evidence regarding the physical data and juridical data contained therein , insofar as the physical data and juridical data the in accordance with existing data in letter measure and book land the rights concerned .

In matter something field land Already published certificate in a manner legitimate on the name of the person or legal entity that obtained it land the with faith well and by real master it , then others feel \_ have right on land That No can Again demand implementation right the if in period time (5) five years since publication holder certificate and head of the relevant Land Office or No submit lawsuit to Court about mastery land or publishing certificate the .

So that with thereby so certificate land that has issued by the land agency national have strength strong evidence \_ as listed in Article 19 UUPA if fulfil conditions certain , as for conditions the are :

Certificate right on land obtained with faith Good

In application Article 32 PP Number 24 of 1997 requirements main must fulfilled during the registration process land ie exists element of " faith good " good before obtain nor in the certification process ground . Faith Good Good can formulated as following :

Faith Good is something abstract and difficult meaning \_ For formulated , so people more Lots formulate it through events in court and on faith Good in implementation agreement related with problem propriety and appropriateness .

Deeds without trick power , no trick pokey , without peek common sense , without bother party else , no with see interest Alone only , but also with see the interests of others.

Faith Good is intention from one party in something agreement For No harm partners the promise nor No harm interest general .

Principle faith Good This can distinguished on faith both subjective and intentional objective good . \_ Faith Good in subjective sense \_ can interpreted as honesty somebody on in do something deed law , that is what lies in attitude inner someone at the time held something deed law . In good faith Good in objective sense intended is implementation something must agreement \_ based on norms propriety or what is felt proper in something society . Faith Good in a manner subjective refers to attitude inner or existing elements in self maker , meanwhile faith Good in an objective sense more on things outside self perpetrator .

Holder right on land must control in a manner real the land .

In law land national law custom is source main in development of National Land Law. This means that development based on National Land Law the conception of Customary Law, which was formulated with religious communalistic words , which makes it possible mastery land individually , with rights on characteristic land private , all at once contain togetherness . Communalistic nature religious the conception of the National Land Law is indicated by Article 1 paragraph (2) of the BAL: " all earth , water and space space , incl riches contained nature inside it within the territory of the Republic of Indonesia, as bounty Almighty God Esa , is earth , water and space space the Indonesian nation and is riches national ."

In article 24 paragraph 2 of the Regulations Government Number 24 of 1997 concerning registration declared land \_ that in matter No or No Again available in a manner complete tools proof as referred to in paragraph (1), bookkeeping right can done based on reality mastery physique field the land concerned for 20 ( twenty ) years or more in a manner consecutively by the applicant registration and its predecessors , with conditions :

Mastery the done with faith well and by open by the person concerned as entitled on land , as well strengthened by the testimony of trusted people ;

Mastery the Good before nor during announcement as intended in Article 26 no questioned by society law custom or village the municipality concerned or party other .

Explanation in provision regulation above, stressed that subject the law you want do publishing certificate right on land must in a manner real control land in a manner physique for 20 ( twenty ) years or more in a manner successively by the applicant registration or its predecessors . With thereby so strength certificate whose issuance process without to my knowledge from expert inheritance other entitled \_ have strength strong evidence \_ during No There is others feel \_ object to publishing certificate the as arranged in Article 32 paragraph (1) regulations government Number 24 of 1997, however No apply provision paragraph (2) . due to the publishing process certificate the done with method faith No Good so that others feel have right on land the can demand implementation right the although period 5 years time since publication certificate by the land agency office authorized national has past . As for efforts that can done by

experts inheritance other entitled to registered land the is with submit cancellation to publishing certificate the .

Cancellation to certificate can done in 2 (two) ways that is submit application cancellation certificate Because disabled administration or submit lawsuit to State Administrative Court (PTUN). kindly juridical registration right on unfinished land \_ shared inheritance done \_ registration by one expert inheritance is No allowed in a manner law Because especially must first \_ done is do distribution inheritance between expert proven inheritance with deed distribution load inheritance information that right on land certain fall to a recipient inheritance certain . So that on base That Then expert given inheritance right on land the do activity registration land in the office of the authorized land agency .

Strength certificate whose issuance process without to my knowledge from expert inheritance other entitled \_ have strength strong evidence \_ during No There is others feel \_ object to publishing certificate the as arranged in Article 32 paragraph (1) regulations government Number 24 of 1997, however No apply provision paragraph (2). due to the publishing process certificate the done with method faith No Good so that others feel \_ have right on land the can demand implementation right the although period 5 years time since publication certificate by the land agency office authorized national has past .

Description the give information that if the process of returning the name of the certificate of ownership is carried out by the expert inheritance other without include expert inheritance replacement has violate part absolute from expert inheritance replacement . because transition right certificate object dispute has contrary with provisions which law happened and has also contradicted with principles general good governance. In matter this is the process of turning over the name of the certificate of ownership carried out by the expert inheritance without include expert inheritance replacement that is become cancelled Because disabled law in a manner administration land . it because who became base come back Name certificate right owned by object dispute form deed distribution inheritance based on deeds oppose law , where making deed No involve whole expert legal heir or violate part absolute expert inheritance replacement .

It as provision Article 64 Paragraph 1 Letter c along with the explanation in Constitution Number 30 of 2014 concerning Administration The government stated : Decision only can done repeal if there is disabled authority ; procedure ; and/ or substance .

As for what is meant with " disabled substance " including decisions No carried out by the recipient of the Decree until the specified time limit ; facts and conditions law that becomes base decision has change ; decision can harmful and detrimental interest general ; or decision No used in accordance with listed purposes \_ in contents of the Decision.

Based on description that so can is known that legal certainty for replacement heirs in the process of transferring the name of the land certificate property rights exercised by experts inheritance other that is form cancellation come back Name as much as it has done by experts inheritance other . it because who became base come back Name certificate right owned by object dispute form deed distribution inheritance based on deeds oppose law, where making deed No involve whole expert legal heir or violate part absolute expert inheritance replacement as provision Article 841 of the Civil Code . With thereby so the name of the certificate of ownership is reversed by the expert inheritance without include expert inheritance replacement is disabled substantive .

## CONCLUSION

Legal certainty for replacement heirs in the process of transferring the name of the land certificate property rights exercised by experts inheritance other that is form cancellation come back Name as much as it has done by experts inheritance other . it because who became base come back Name certificate right owned by object dispute form deed distribution inheritance based on deeds oppose law , where making deed No involve whole expert legal heir or violate part absolute expert inheritance replacement as provision Article 841 of the Civil Code . With thereby so the name of the certificate of ownership is reversed by the expert inheritance without include expert inheritance replacement is disabled substantive .

For creation certainty law in the process of returning the name of the land certificate right of ownership Because inheritance , it is expected that the National Land Agency as official authorized general in process of returning the name of the certificate must careful and thorough in operate position , where the National Land Agency must do checking related whole expert rightful heir \_ on object right on land so that No raises dispute later bad day \_ party other .

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