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AUTHORITY OF THE NOTARY IN MAKING CERTIFICATE OF INHERITANCE FOR INDONESIAN CITIZENS

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Abstract

This article aims to discuss the authority of a notary regarding the making of an inheritance certificate for Indonesian citizens and the legal certainty of an inheritance certificate for Indonesian citizens made by a notary based on Article 106 of Law Number 23 of 2006 as Amended by Law Number 24 of 2006. 2013 concerning Population Administration. This article uses normative legal research methods. The nature of the research is descriptive analysis. The primary legal materials used in this study are the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2006 concerning Citizenship, Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration, Regulation of the Minister of Agrarian Affairs/Regulation of the Head of the National Land Agency Number 16 of 2021 concerning the third Amendment to Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation No. 24 of 1997 concerning Land Registration, Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary. The secondary legal materials include textbooks, legal dictionaries, legal journals, and comments on court decisions. The tertiary legal materials used in this study are the Big Indonesian Dictionary and the Legal Dictionary. The results of the study show that the Notary's Authority in making inheritance certificates for Indonesian citizens is valid. Because a Notary as a public official is given the authority to carry out some of the state's duties in making authentic evidence in the field of civil law whose authority is regulated in a separate regulation. The legal certainty of a certificate of inheritance for Indonesian citizens made by a Notary has perfect evidentiary power.

Keywords: ***Authority, Notary, Certificate of Inheritance, Indonesian Citizen***

1. INTRODUCTION

The Indonesian population, which is multi-cultural, multi-ethnic, religious, racial and multi-group, reflects the cultural diversity of the nation of the Unitary State of the Republic of Indonesia which we know as Bhinneka Tunggal Ika. The existence of this ethnic diversity caused the Dutch colonial government in the colonial era to implement legal politics regarding population classification. The Indonesian population is divided into 3 groups and each of these population groups has its own Civil Law. During the Dutch East Indies era, in the field of Civil Law in general and Inheritance Civil Law in particular, legal pluralism was found. This happened because the Dutch East Indies government according to article 163 paragraph (1) IS (Indische Staatsregeling), the Indonesian population was divided into 3 population groups, namely:

1. European Group,
   according to article 163 paragraph (2) IS IS (Indische Staatsregeling), those included in the European group are: a) All Dutch citizens; b) Europeans; c) Japanese citizen; d) People who

come from other countries whose family law is the same as the Dutch family law, especially the principle of monogamy; d) Their descendants mentioned above.

2. Indigenous people
   according to article 163 paragraph (3) IS IS (Indische Staatsregeling), those belonging to the indigenous group are: a) Indigenous Indonesians; b) Those who originally belonged to another group, then assimilated themselves into the original Indonesians.
3. Foreign Easterners
   according to article 163 paragraph (4) IS IS (Indische Staatsregeling), those belonging to the Eastern Foreign group are those who do not belong to the European or Indonesian original group, namely: a) Chinese Foreign Eastern Group (China); and b) Non-Chinese Easterners.

The existence of article 163 IS IS (Indische Staatsregeling) applies based on the provisions in Article II of the transitional rules of the 1945 Constitution (UUD 1945) which explains that "All existing State agencies and regulations are still in effect immediately, as long as new ones have not been enacted according to the Constitution. The distribution of population groups above is also followed by the application of legal rules according to their groups. This explanation is contained in Article 131 IS (Indische Staatsregeling), namely that for European groups, the applicable law is the law in the Netherlands. As for the Eastern Foreign group, its own law applies. Furthermore, for the last group, namely the Indigenous People, the applicable law is customary law. Therefore, the provisions of inheritance law also follow legal rules based on population groups. The European group and what was equated in fact received the exclusivity of the colonial government, the provisions of the inheritance law referred to the book Burgerlijk Wetboek (WB). The reference to the BW book also applies to Chinese and other foreign eastern groups. In addition, this group is also welcome to adopt their respective customary law, such as customary law from China or customary law from India. The enforcement of customary law also applies to the Bumiputra group. Due to the large number of customary environments, each customary law applies.

This Population Classification is still applied in Indonesia until the enactment of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia,As a complement to the Citizenship Law, Law Number 23 of 2006 was born as amended by Law Number 24 of 2013 Concerning Population Administration (Population Law)which basically only differentiates the population into two, namely Indonesian citizens (WNI) and foreign citizens (WNA), with the existence of the population law, Article 163 IS (Indische Staatregeling) and Article 131 IS (Indische Staatregeling) are no longer valid so that Accordingly, for the transfer of land, the Ministry of Agrarian issued an amendment to Article 111 paragraph (1) letter c of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 16 of 2021, the third amendment to the Regulation of the Minister of Agrarian Affairs/Head of the Land Agency National Regulation Number 3 of 1997 concerning Provisions for implementing Government Regulation Number 24 of 1997 (PERMEN ATR/BPN) concerning Land Registration. Currently, inheritance law in Indonesia still adheres to three systems, namely inheritance law based on BW, inheritance law according to customary law as local wisdom, and inheritance law according to Islam. The legitimacy of these three systems of inheritance law is mentioned in article II of the Transitional Rules of the 1945 Constitution, which more or less explains, all existing rules and bodies are still in effect as long as they have not been replaced. Inheritance occurs because of the legal event of someone's death. If there is a legal event, namely the death of a person as well as causing legal

consequences, namely what about the management and continuation of the rights and obligations of someone who died. According to I Gede Purwaka as follows:

"A Certificate of Inheritance is a strong evidence of the existence of a transfer of rights over an inheritance from the heir to the heirs, meaning that there has been a transfer of ownership of the inheritance from ownership of the heir to joint ownership of the heirs in accordance with the number of heirs". The SKW is urgently needed to legally ensure who is entitled to the property left by the heir, not even just the property but including the debts and burdens of the deceased. SKW serves to prove the parties who are entitled to inheritance from the heir and the amount of inheritance that will be received by the heirs. The making of SKW in Indonesia is carried out by different officials, which are based on population groups, namely Notaries, Heritage Institutions (BHP), Lurah/Village Heads and confirmed by the Camat. For indigenous Indonesian citizens, the inheritance certificate is made privately, signed by the beneficiary, witnessed or signed by 2 (two) witnesses and known by the lurah and confirmed by the sub-district head, for Indonesian citizens of Chinese and European descent, making The deed of inheritance rights is carried out by a notary, preceded by checking the will at the Center for Testimony at the Ministry of Law and Human Rights. For Indonesian citizens of foreign eastern descent (Arabic and Indian), the certificate of inheritance is made at the Heritage Treasure Hall (BHP).

For inheritance in the transfer of land in Indonesia, making a statement of inheritance refers to the provisions of Article 111 paragraph (1) letter c of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for implementing Government Regulation Number 24 of 1997 concerning Land Registration,which reads: a letter of evidence as an heir which can be in the form of: 1) a will from the heir, or, 2) a court decision, or 3) a determination of the judge/chairman of the court, or 4) for native Indonesian citizens: a certificate of heir made by the heirs witnessed by 2 (two) witnesses and confirmed by the Head of the Village/Kelurahan and Camat where the heir resides at the time of death; a) for Indonesian citizens of Chinese descent: deed of inheritance rights from a Notary, b) for other Indonesian citizens of Foreign Eastern descent: SKW from the Probate Court: 1) written power of attorney from the heirs if the person submitting the application for registration of the transfer of rights is not an heir concerned; 2) proof of identity of the heir. Notary is a public official, the term notary is derived from the name notary which is used as a designation for a fast writer or stenographer. based on the Regulation of the Minister of Agrarian Affairs article 111 paragraph 1 letter c number 5 it can be concluded that Notaries have the authority to make SKW for all Indonesian Citizens even though in Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN) there is no provision confirming that the Notary has the authority to make a certificate of inheritance, but in Article 15 paragraph (1) Notaries have the authority to make authentic deeds and in Article 15 paragraph (2) letter f to make deeds related to land. The Notary's guideline for making SKW was SERMA-RI which refers to the Circular of the Ministry of Home Affairs of the Directorate General of Agrarian Affairs Directorate of Land Registration (Kadaster) dated 20 December 1969 Number Dpt/12/63/12/69 concerning Certificates of Inheritance and Proof of Citizenship.

Until now, the provisions for making SKW in Indonesia, even though the population classification has been abolished, but in practice it is still based on the distribution of population groups to determine what inheritance law will be used as the basis for dividing inheritance for these indigenous groups, whether to use BW inheritance law, inheritance law Adat or Islamic law of inheritance. This is what causes some notaries to hesitate in making SKW for indigenous groups because notaries have so far made notarial deeds referring to the Civil Code (BW) including the authority to make SKW which is not regulated in UUJN.

2. RESEARCH METHODS

The research method used is normative legal research.Normative legal research or library law research methods are methods or methods used in legal research conducted by examining existing literature. This research is descriptive analytical. Descriptive, namely research aimed at describing a certain thing and at a certain time. The primary legal materials used in this writing are the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2006 concerning Citizenship, Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration, Regulation of the Minister of Agrarian Affairs/Regulation of the Head of the National Land Agency Number 16 of 2021 concerning the third Amendment to Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation No. 24 of 1997 concerning Land Registration, Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary. The secondary legal materials are in the form of all legal publications which are not official documents. Publications on law include textbooks, legal dictionaries, law journals, and commentaries on court decisions. Tertiary legal materials used in this study areBig Indonesian Dictionary and Legal Dictionary.

3. RESULTS AND DISCUSSION

3.1 Authority of a Notary Concerning Making a Certificate of Inheritance for Indonesian Citizens

Notaries as officials authorized by the state to make evidence in the form of authentic deeds, with the enactment of the Population Administration Law Notaries have a very important role in making inheritance certificates, based on this the author will discuss the authority of Notaries regarding making inheritance certificates for Indonesian citizens from the perspective of Article 106 of Law Number 23 of 2006 As Amended by Law Number 24 of 2013 Concerning Population Administration in the following explanation: Certificate of Inheritance is a letter which is used as the basis for the right of the heirs to take legal action on an inheritance left by the heir.With a certificate of inheritance, the heirs can take legal action against the inheritance of the heir jointly, both regarding management actions and actions of ownership of the inheritance, in this case in the form of inheritance in the form of land which, if you want to do it back names can apply to the local Land Office by: a) Registering the transfer of rights (transfer of title) for land that has been registered (certified); b) Apply for new rights (certificates) on land that has not been registered, such as girik land, former western rights land, state land.

On June 8, 1997 Government Regulation Number 24 of 1997 concerning Land Registration was promulgated to replace Government Regulation Number 10 of 1961. To implement this Government Regulation Number 24 of 1997, a Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Implementation Provisions was issued. Government Regulation Number 24 of 1997 concerning Land Registration. Article 42 of Government Regulation Number 24 of 1997 concerning Land Registration orders a certificate of inheritance as the basis for the transfer of rights due to inheritance, which in essence is that if there is only one person receiving the inheritance, proof of the transfer of rights is a certificate of proof as heir. Making evidence as heirs is made based on the principle of population classification contained in the provisions of Article 111 paragraph (1) letter c of the Minister of Agrarian Affairs / Head of the National Land Agency Regulation No. 3 of 1997 as amended by Regulation of the Head of the National Land Agency No. 8 of 2012 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning

Land Registration. The party authorized to issue a stipulation regarding the distribution of the inheritance of people who are Muslim is the Religious Court.

However, this is used as the basis of reference for any actions outside the land because there are indeed no regulations that specifically regulate inheritance certificates. Indonesia has made laws and regulations in accordance with Article 26 paragraph (2) of the 1945 Constitution with the principle of equal rights for all citizens and the elimination of population groups so that there are only Indonesian citizens and foreign nationals, namely the Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia and followed by Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration (hereinafter referred to as the Population Administration Law). Article 106 of the Population Administration Law explains that when this law comes into effect, the regulations regarding the classification of the population will be revoked and declared null and void. Based on this article, the principle of population classification since the enactment of the Population Administration Law is no longer valid, specifically the provisions of Article 111 paragraph (1) letter c Regulation of the Head of the National Land Agency Number 3 of 1997 as amended by Regulation of the Head of the National Land Agency Number 8 of 2012 regarding Amendments to the Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning Land Registration (hereinafter referred to as Perkaban Number 3 of 1997).

In other words, the provisions in Article 111 paragraph (1) letter c Perkaban Number 3 of 1997 are contrary to Article 106 of the Population Administration Law, because there is an inconsistency of norms regarding the abolition of the principle of population classification. Based on this explanation, when viewed from the perspective of Article 106 of Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration, the authority to make inheritance certificates is not limited by the provisions of Article 111 paragraph (1) letter c Perkaban Number 3 of 1997, because the population classification is no longer applied since the enactment of the Population Administration Law. A certificate of inheritance is a form of proof from the heir regarding the truth that the right person and has the right to inherit from the heir, which in its contents explains the position of the heir and the relationship with the heir. There are several elements in inheritance that are important, namely heirs, heirs and inheritance. Heirs are people who are entitled to the inheritance left by the heir. Inheritance is the assets left by the deceased, either in the form of assets or liabilities.

Information on inheritance rights is made with the aim of proving who is the legal heir to an inheritance that has been opened according to law and how much portion or portion of each heir to the inheritance that has been opened. A statement of inheritance rights is also called a certificate of inheritance rights (SKHW), a certificate of inheritance (SKW) is a letter of proof of inheritance, namely a letter proving that those mentioned in the certificate of inheritance are the heirs of a particular heir. Information on inheritance rights to transfer the name of the inheritance received and on behalf of the heir to be on behalf of all heirs. Certificate of Inheritance is often used in carrying out registration of transfer of land rights due to inheritance, in the elucidation of Article 42 Paragraph (1) of Government Regulation No. 24 of 1997 concerning Land Registration explains, Transfer of rights due to inheritance occurs due to law when the right holder concerned dies. In a sense, since then the heirs have become the new rights holders. Regarding who is the heir, it is regulated in the Civil Law that applies to the heir. Registration of the transfer of rights due to inheritance is also required, in order to provide legal protection to heirs and for the sake of order in the administration of land registration, so that the data stored and presented always shows the most up-to-date condition. Evidence as an heir can be in the form of a Deed of Inheritance Rights.

The existence of a certificate of inheritance at the time of registration of the transfer of land rights because inheritance is very important, the legality of the new right holder is proven by the certificate of inheritance. Arrangements regarding the making of Heir Certificates for the Bumiputera group are contained in Article 111 paragraph (1) letter c Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 as amended by Regulation of the Head of the National Land Agency Number 8 of 2012 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as Perkaban No. 8 of 2012), which states that a letter of evidence as an heir which can be in the form of:

1. testament from the testator, or
2. Court decision, or
3. determination of the judge/chairman of the court, or
4. for Indonesian citizens who are indigenous people: a certificate of inheritance made by the heirs witnessed by 2 (two) witnesses and confirmed by the Head of the Village/Kelurahan and Camat where the heir lives at the time of death, for Indonesian citizens of Chinese descent: a statement of deed right of inheritance from a Notary, for other Indonesian citizens of Foreign Eastern descent: a certificate of inheritance from the Heritage Treasure Hall.
5. written power of attorney from the heirs if the person submitting the application for registration of the transfer of rights is not the heir concerned;
6. proof of identity of the heir.

In this article, the authority of a Notary in making a certificate of inheritance is limited only for Indonesian citizens of Chinese descent. The difference in handling in making a certificate of inheritance based on the article above, is motivated by the provisions of the Perkaban Number 3 of 1997 which still refers to article 163 IS which is rules inherited from the colonial era of the Dutch East Indies government which applied the principle of population classification. In addition, Article 111 paragraph (1) letter c Perkaban Number 3 of 1997 only explains the making of an inheritance certificate whose designation is used as evidence of heirs in carrying out activities for registering land rights due to inheritance. In the previous sub-chapter above, it has been explained that the authority to make a certificate of inheritance is not limited by the provisions of Article 111 paragraph (1) letter c of Perkaban Number 3 of 1997, so in this case the Notary as a public official authorized by the state in making authentic deeds has a role which is very important in making a certificate of inheritance. To analyze the authority of a Notary in making a certificate of inheritance for Indonesian citizens, it is necessary to analyze it based on the theory of authority with a systematic interpretation method, namely interpreting laws and regulations by linking them with other legal regulations or laws or with the entire legal system. If analyzed using extensive interpretation, the certificate of inheritance has a very important function as evidence, the certificate of inheritance does not only function in land activities but has the following functions:

1. The certificate of heirs has a function for the heirs to pawn or guarantee the heir's inheritance to other parties or creditors (banks);
2. The certificate of heirs has the function of transferring the inheritance of the heir to another party;
3. The certificate of heirs has the function of changing the status of joint ownership of the inheritance of the heirs to the property of each heir by carrying out or making a deed of division and separation of the heir's inheritance before a Notary;

4. Letterthe heir's statement has a function as evidence for the heir to be able to take or withdraw money from the heir at a bank or insurance.

Considering that the existence of a certificate of inheritance is very important, it needs to be made in the form determined by law (authentic) so that it has perfect legal force. So based on the method of systematic interpretation, in this case the certificate of inheritance made in the form of an authentic deed fulfills the provisions of Article 1870 of the Civil Code which states that an authentic deed provides perfect evidence of what is contained therein, in terms of its relation to the heirs in the certificate his legacy is made in authentic form. Furthermore, it is related to the authentic deed in Article 1868 of the Civil Code which intends to contain 3 elements, namely: 1) In the form determined by law. 2) Made by and before a public official. One of the elements is made by and before a public official who is a Notary, Article 1 UUJN states "Notary is a public official authorized to make authentic deeds and other authorities as referred to in this Law" regarding the authority of the Notary is regulated in Article 15 UUJN which mentions:

(1) The notary has the authority to make authentic deeds regarding all actions, agreements and stipulations that are required by laws and regulations and/or that are desired by interested parties to be stated in authentic deeds, guarantee the certainty of the date of making the deed, save the deed, provide grosse, copies and quotations of the deed , all of this as long as the making of the deeds is not also assigned or excluded to other officials or other people determined by law.

(2) the authority of a notary other than what is referred to in paragraph (1) is explained, namely: (a) to legalize signatures and determine the certainty of the date of private documents by registering them in a special book; (b) record private letters by registering them in a special book; (c) make a copy of the original private letter in the form of a copy containing the description as written and described in the letter concerned; (d) verify the suitability of the photocopy with the original letter; (e) provide legal counseling in connection with the making of deeds; (f) making deeds related to land; or (g) make a deed of minutes of auction.

The authority of the Notary to be determined later is contained in paragraph (3) which states, Apart from the authority referred to in paragraph (1) and paragraph (2), the Notary has other authorities as regulated in laws and regulations. Through the relationship between all the regulations described systematically, the Notary's authority in making a certificate of inheritance in the form of an authentic deed is an attribution authority which is the granting of new authority to a position based on a statutory regulation or rule of law. Through this theory of attribution authority, a Notary obtains a source of authority from Article 15 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position Regulations (UUJN). The legal basis can be used as the basis for making a certificate of inheritance. So that based on this law, a Notary can create a form of inheritance certificate/deed of inheritance rights that applies to all Indonesians who need it without being based on Dutch law with the principle of distinction or classification of the population. Apart from the explanation above.

The authority of sub-district heads in making inheritance certificates is not regulated in Law Number 32 of 2004 as amended by Law Number 23 of 2014 concerning Regional Government. strengthen the certificate of inheritance made by heirs who belong to the indigenous group. So that the village head, lurah and sub-district head do not have the authority to witness and strengthen the certificate of inheritance because an authority must originate from a statutory regulation either obtained by means of

attribution, delegation or mandate. In accordance with the opinion of RJHM Huisman, which explains that authority can only be granted by law. The Heritage Hall (BHP) is part of the organizational structure of the Ministry of Law and Human Rights, under the Directorate of Civil Affairs. Structurally, BHP is a government agency (executive) Whichcarrying out government affairs. The authority of BHP in making inheritance certificates refers to Article 111 paragraph (1) letter c Perkaban Number 3 of 1997 which is a guideline for making inheritance certificates to be used as proof of heirs for the implementation of land registration due to inheritance only, in other words BHP does not have the authority to make a certificate of inheritance whose designation is outside the implementation of land registration due to inheritance. In addition to the above, Article 111 paragraph (1) letter c Perkaban Number 3 of 1997 also states that a letter of proof as an heir can be in the form of a determination by the Judge/Chairman of the Court. Those who are subject to customary law and Christians, a Certificate of Inheritance is made by the District Court at the heir's last residence. For those who are subject to Islamic law, Certificate of Inheritance made by the Religious Court (Syari'ah). However, at this time the District Court and the Religious Courts are no longer authorized to issue Inheritance Certificates. This was stated in the Letter of the Chief Justice of the Supreme Court dated 8 July 1993 Number: 26/TUADA-AG/III-UM/VII/1993.

At present the District Court and the Religious Court are only authorized to issue a Decision to determine the heir if a dispute is filed among the heirs or in the inheritance case which is submitted to the court. Likewise, an application to stipulate that a person or several persons are the heirs of the deceased cannot be filed. Determination of heirs can be granted in a lawsuit regarding the heirs of the deceased. Based on the explanation above, of the four institutions that are given the authority to make a certificate of inheritance, it can be seen that the Notary is actually the most appropriate to make a certificate of inheritance from an institutional point of view. Because a Notary as a public official is given the authority to carry out some of the state's duties in making authentic evidence in the field of civil law whose authority is regulated in a separate regulation.

3.2 Legal Certainty of Inheritance Certificates for Indonesian Citizens Made by Notaries Based on Article 106 of Law Number 23 of 2006 As Amended by Law Number 24 of 2013 Concerning Population Administration

Based on the perspective of Article 106 of Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration, a Notary has the authority to make a certificate of inheritance without regard to population classification. The authority of a Notary in making a certificate of inheritance for Indonesian citizens is based on the provisions of Article 15 UUJN, so that a certificate of inheritance for Indonesian citizens is made in the form of an authentic deed. To test whether the certificate of inheritance rights made by a Notary is an authentic deed, it is necessary to review it from the Legal Certainty Theory through an analytical approach.

Certainty is a characteristic that cannot be separated from law, especially for written legal norms. Law without certainty value will lose meaning because it can no longer be used as a guideline for everyone's behavior. Certainty itself is referred to as one of the objectives of the law. The level of fundamental analysis to determine whether the rule of law or the legal system is good or bad is the level of moral analysis. Lon Fuller distinguishes moral content in two aspects, namely internal aspects and external aspects. Lon Fuller put forward eight principles as the basis and requirements for legitimacy for the implementation of the principle of legality (legal certainty), namely: (a) law is represented in general rules; (b) laws must be published; (c) the law must be non-retroactive (not retroactive); (d) the law must

be clearly formulated; (e) the law must not contain conflicts between one law and another; (f) the law must not demand or oblige something that is impossible; (g) laws must be relatively constant; (h) the government as far as possible adheres to legal rules (which it creates or recognizes).

To find out the suitability of the eight principles of legal certainty above regarding legal certainty of inheritance certificates made by a Notary, it must be measured based on the provisions governing the legality of legal products produced by a Notary which in this case is an authentic deed. To measure the legal strength of the certificate of inheritance as an authentic deed, the certificate of inheritance must fulfill the elements regarding an authentic deed. According to Iwan Soedirjo, there are three essential elements in order to fulfill the formal requirements of an authentic deed, namely made in a form determined by law, made by or before an authorized public official, and a deed made by or before an authorized public official for that and the place where the deed was made. "An authentic deed is a deed made in a form determined by law by or before a public official authorized for that at the place where the deed was made".

The provisions in Article 1868 of the Civil Code say that a deed can be said to be an authentic deed if it fulfills the following conditions:

1. The deed was made by (door) or made before (tenoverstaan), a public official (openbareambtenaren);
2. The deed must be made in a form (vorm) that has been determined by law (wettelikjevorm);
3. The public official who draws up the deed must have the authority to make the deed, whether the authority is based on the area/area of work or the time at which the deed was drawn up.

According to F. Eka Sumarningsih, authentic deeds are divided into two, namely partij acta and relaas acta. Partij deed or party deed is a deed made before a notary, meaning that a deed is made based on the statement or actions of the party who appears before the notary, and the statement or deed must be confirmed by the notary to make the deed. While the relaas deed or official deed is a deed drawn up by a Notary as a public official which contains an authentic description of all events or incidents seen, experienced, and witnessed by the Notary himself.

An authentic deed has the strength or value of proof in outline as follows:

1. Outwardly. The ability of the deed itself to prove its validity as an authentic deed. If seen from the outside (its birth) as an authentic deed and in accordance with predetermined legal rules regarding the terms of an authentic deed, then the deed is valid as an authentic deed, until proven otherwise, meaning until someone proves that the deed is not an outwardly authentic deed.
2. Formal. Must provide certainty that the events and facts in the deed were actually carried out by a public official or explained by the parties who appeared at the time stated in the deed in accordance with the procedures specified in making the deed.
3. Material. Certainty regarding the mystery of a deed, statement or statement contained in the deed must be considered true.

First, the requirements for the deed are made by (door) or made before (ten overstain) public officials appointed by law based on Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Regulations for Notary Positions. In Article 1 paragraph (1) it is stated that "Notary is a public official authorized to make authentic deeds and other authorities as referred to in this law. General officials here are defined as officials who are entrusted with the task of making authentic deeds that serve the public interest. From these provisions it can be seen that the qualifications of a Notary as a

public official are fulfilled because it is specifically regulated in a separate law. The qualification of a Notary as a public official is related to the authority of a Notary,

Thus a public official is a position given to those who are authorized by law in making authentic deeds, and a Notary as a public official to him is given the authority to make authentic deeds. So that in this case it fulfills the requirements specified by Article 1868 of the Civil Code. Second, the form (form) of the deed made by a public official which is said to be an authentic deed must be determined by law. Regarding the deed of inheritance rights that have been made by a Notary, the form has never been regulated by law. The form of a deed of inheritance rights made by a Notary is only regulated in Article 111 paragraph (1) letter c number 4 of the regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration in the form of a deed but there are still differences of opinion regarding the form of the certificate of inheritance that should be drawn up.

Third, the public official who draws up the deed must have the authority to draw up the deed, whether the authority is based on the area/area of work or the time at which the deed was drawn up. The authority of a notary includes four things, namely: (1) a notary must be authorized insofar as it relates to the deed he made, (2) a notary must be authorized in so far as it concerns the people, for whose benefit the deed was made, (3) a notary must be authorized as far as the place , where the deed was drawn up, and (4) the Notary must be authorized as long as it relates to the drawing up of the deed. A deed drawn up by an official without authority and without the ability to make it or does not meet the requirements is not considered an authentic deed, but only has the power of an underhanded deed if it is signed by the parties concerned. Article 15 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position Regulations determines the authority of a Notary, this authority is a limitation that a Notary may not take an action outside of that authority. The authority of a Notary in making a certificate of inheritance is a form of implementation of a Notary as a public official authorized to make authentic evidence. The authority of a Notary in making a certificate of inheritance is only regulated in the provisions of Article 111 paragraph (1) letter c number 4 of the regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration.

Thus, the certificate of inheritance made by a Notary is an authentic deed based on Article 1868 of the Civil Code. In terms of proving the inheritance certificate in the form of an authentic deed, it has perfect proof value because it is made before an authorized official, namely a Notary. The certificate of inheritance in the form of an authentic deed provides perfect evidence of what is contained in it, as long as the certificate of inheritance can still be used, and the agreement contained therein has not expired, so even if the parties have died, the heirs still have to and must comply with all the provisions contained in the inheritance certificate, but if the truth in the authentic deed is disputed, the party who disputes must prove the untruth of the inheritance certificate.

4.CONCLUSION

The authority of a Notary in making a certificate of inheritance for Indonesian citizens is valid. From the four institutions that are given the authority to make a certificate of inheritance, it can be seen that the Notary is actually the most appropriate to make a certificate of inheritance from an institutional point of view. Because a Notary as a public official is given the authority to carry out some of the state's duties in making authentic evidence in the field of civil law whose authority is regulated in a separate regulation. The legal certainty of a certificate of inheritance for Indonesian citizens made by a Notary has

perfect evidentiary power. Based on the theory of legal certainty, a certificate of inheritance drawn up by a Notary is an authentic deed based on Article 1868 of the Civil Code. The inheritance certificate in the form of an authentic deed provides a perfect proof of what is contained in it, as long as it can still be used, and the agreement contained therein has not expired. So even if the parties have died, the heirs still must and must comply with all the provisions contained in the deed, but if the truth in the inheritance certificate is disputed, the party who disputes must prove the untruth of the inheritance certificate.

REFERENCES

Book:

A.Kohar, 2000, Communication Notary, Bandung: Alumni Publisher.

Arief. Sidharta, 2008, Legal Ethics, Bandung: Law Laboratory, Faculty of Law, Parahyangan Catholic University.

Habib Adjie, 2008, Evidence as an heir with a notarial deed (in the form of an heir's certificate), Bandung, Mandar Maju.

¬¬¬¬¬¬¬¬¬¬¬_____, 2015, Thematic Interpretation of Indonesian Notary Law, Jakarta: Refika Aditama.

Hartono, Sunarjati, 1991, From Intergroup Law to Intertraditional Law, Bandung: Citra Aditya Bakti.

Harun, Arsyad, 2010, Juridical Review of Certificates of Inheritance for Residents in Indonesia, Bandung: Refika Aditama.

I Gede Purwaka, 1999, Statement of Inheritance Rights made by Notary, Jakarta: University of Indonesia.

¬¬¬¬¬¬_____, 1999, Statement of Inheritance Rights Made by a Notary Based on Stipulations of the Civil Law Act, Jakarta.

Kie, Tant Tong, 2007, Notary Studies & Miscellaneous Notary Practices, Jakarta: Ichtiar Baru van Hoeve.

Mertokusumo, Sudikno., 2014, Legal Findings An Introduction, Revised Edition, Yogyakarta: Cahaya Atma Pustaka.

Nur Moh. Kasim, 2014, Islamic Law and Contemporary Issues, Yogyakarta: Interpena.

Ronny Hanitijo Soemitro, 1994, Legal and Jurimetric Research Methodology, Jakarta: Ghalia Indonesia, Fifth Edition.

Soerjono Soekanto and Sri Mamudji, 2009, Normative Legal Research A Brief Overview, 11th Printing. Jakarta: PT Raja Grafindo Persada.

Sunarti Hartono, 2015, Analysis and evaluation of Dutch Colonial Heritage Regulations, National Legal Development Agency, Ministry of Law and Human Rights.

Journal/Seminar

Ella Emilia Rahmasari, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko, 2022, Student, Faculty of Law, Sebelas Maret University, "Legal Certainty Arrangement of Inheritance Certificates in Registration of Transfer of Land Rights Due to Inheritance", UNIBA Surakarta National Seminar.

Shafi ra Meidina Rafaldini; Anita Afriana; Pupung Faisal, Certificate of Inheritance containing incorrect information related to the strength of the proof as an authentic deed, Faculty of Law, University of Padjadjaran, Journal of Civil Procedure Law, Vol. 6, No. 1, January – June 2020.

Internet:

Rumah.com editorial team, “property guide”,www.rumah.com, June 22, 2023.