

**Article History**

Received: 11 Feb 2025

Reviewed: 17 Mar 2025

Accepted: 26 Mar 2025

Published: 3 Apr 2025

# Efforts to Withdraw Inheritance Assets Controlled by One of the Heirs

**Dewanto Satrio Prakoso<sup>1\*</sup>, El-Roi Arauna<sup>2</sup>, Christiana Tri Budhayati<sup>3</sup>**<sup>1,2,3</sup> Satya Wacana Christian University, Indonesia\*correspondence email : [dewantoprakoso004@gmail.com](mailto:dewantoprakoso004@gmail.com)**Abstract**

**This study aims** to explain the efforts that can be used by aggrieved heirs to withdraw the inheritance property controlled by one of the heirs due to a will made under duress.

**The research method** used is normative legal research using the statutory approach method and conceptual approach method.

**Novelty** in this research is to provide the most appropriate effort in withdrawing inherited property controlled by one of the heirs, this novelty includes important elements that will contribute to science, especially in the field of inheritance law. Meanwhile, people only withdraw inherited property using the inheritance law approach.

**The research** shows that there are various efforts to withdraw the inheritance controlled by another heir such as the Right of Hereditatis Petitio, the right to demand the distribution of inheritance, and unlawful acts.

**The author concludes**, taking into account the advantages and disadvantages of each of these efforts, that the effort through the right of hereditatis petitio is the most appropriate effort to withdraw inherited property controlled by one of the heirs.

**Keywords:** Legal Efforts; Control of Inheritance Property; Withdrawal of Inheritance Property.

**Abstrak**

**Penelitian ini bertujuan** untuk menjelaskan upaya yang dapat digunakan oleh ahli waris yang dirugikan untuk menarik kembali harta warisan yang dikuasai oleh salah seorang ahli waris akibat adanya surat wasiat yang dibuat karena adanya paksaan.

**Metode Penelitian** yang digunakan yakni penelitian hukum normatif dengan menggunakan metode pendekatan perundang-undangan dan metode pendekatan konseptual.

**Kebaruan** dalam penelitian ini adalah memberikan upaya paling tepat dalam penarikan harta warisan yang dikuasai salah seorang ahli waris, kebaruan ini termasuk elemen penting yang akan memberikan kontribusi terhadap ilmu pengetahuan khususnya di bidang hukum waris. Sementara ini orang hanya melakukan penarikan harta warisan dengan menggunakan pendekatan hukum waris saja.

**Penelitian menunjukkan** bahwa terdapat berbagai upaya penarikan harta warisan yang dikuasai seorang ahli waris lainnya seperti Hak Hereditatis Petitio, hak menuntut pembagian harta warisan, dan perbuatan melawan hukum.

**Penulis memberikan kesimpulan**, dengan memperhatikan kelebihan dan kelemahan masing-masing upaya tersebut, bahwa upaya melalui hak hereditatis petitio merupakan upaya paling tepat untuk melakukan penarikan harta warisan yang dikuasai salah seorang ahli waris.

**Kata Kunci** : Upaya Hukum; Penguasaan Harta Warisan; Penarikan Harta Warisan.

## 1. INTRODUCTION

This paper will discuss what legal remedies can be implemented by the heirs if the inheritance is controlled and owned by one of the heirs based on a forged will. This legal issue is interesting to write about, considering that many solutions to inheritance problems are only based on the provisions of inheritance law, so this paper provides solutions to inheritance problems not only based on the provisions of inheritance law, but also compares them with the efforts of tort through Article 1365 of the Civil Code. According to Pitlo, inheritance law is a combination of regulations on the legal consequences of the transfer of property due to the death of a person, the transfer of the remaining wealth, and the transfer of assets as a result of the law caused, this transfer for the recipients, both in terms of relationships and balance between them with each other and with third parties.<sup>1</sup>

Inheritance law in Indonesia has 3 (three) different systems, including civil inheritance law, customary inheritance law, and Islamic inheritance law.<sup>2</sup> However, this paper will examine inheritance from the perspective of western civil inheritance law. According to western civil law, inheritance occurs due to death. This is evident from Article 830 of the Civil Code which states that "inheritance takes place due to death" so that the death event is a condition for the inheritance to take place. This is very different from inheritance according to customary law which allows inheritance to take place before or after the event of death. In customary law, death is not a condition for inheritance as in Western law and Islamic law.

There are three important things in inheritance law and the transfer of rights will occur if there are 3 (three) elements, namely, there is a deceased person or heir, there is an inheritance, and there are heirs who have the right to obtain the inheritance.<sup>3</sup> The first element is that the heir is a person who dies, and because of this situation leaves property. The second element of inheritance is that everything left behind is called inheritance, which can be in the form of assets (assets) or debts (passiva).<sup>4</sup> Then, the last element related to inheritance is the existence of heirs, namely people who according to the law or testament are eligible for inheritance. Related to the distribution of inheritance can be carried out in two ways, namely according to applicable law (ab intestato) and / or a will (ad testament).<sup>5</sup> Inheritance based on the law that is entitled to receive inheritance is someone who has a kinship relationship based on descent.<sup>6</sup> Whereas inheritance according to a will who has the right to become an heir is someone who refers to in a will or testament.

---

<sup>1</sup> Christiana Tri Budayati, *Mengenal hukum waris*, 1 ed. (Salatiga: Griya Media, 2018).

<sup>2</sup> Yuni Priskila Ginting et al., "Sosialisasi pembuktian kasus hukum waris," *Jurnal Pengabdian West Science* 2, no. 11 (30 November 2023): 1183–94, <https://doi.org/10.58812/jpws.v2i11.786>.

<sup>3</sup> Dwi Ratna Kartikawati, *Hukum waris perdata sinergi hukum waris perdata dengan hukum waris Islam*, 1 ed. (Bekasi: CV. Elvaretta Buana, 2021).

<sup>4</sup> Yayu Palayukan, "Tanggung jawab ahli waris terhadap harta warisan pewaris menurut Kitab Undang-Undang Hukum Perdata," *Lex Privatum* 9, no. 4 (2021): 130–38.

<sup>5</sup> Bambang Hermoyo dan Shinta Rukmi Budiastuti, "Hibah wasiat (testament) dan pelaksanaannya," *Adi Widya: Jurnal Pengabdian Masyarakat* 5, no. 2 (2021): 10,12, <https://doi.org/10.33061/awpm.v5i2.6024>.

<sup>6</sup> Budi Hariyanto, "Tinjauan yuridis terhadap pembagian harta waris beda agama menurut kitab undang undang hukum perdata (KUH Perdata) dan kompilasi hukum Islam (KHI)," *IUS* 8, no. 2 (17 Januari 2021): 28–42, <https://doi.org/10.51747/ius.v8i2.688>.

The separation of inheritance based on Western inheritance law basically only applies what has been stipulated in the Civil Code. However, it is not uncommon for disputes over the division of inheritance to occur because the heirs do not agree with the existing division, especially if there is a testament made by the testator. As in Decision No. 214 PK/Pdt/2017, the decision explained that the testator made a will that was canceled and then the testator made another will as stated in the Deed of Testament dated February 22, 2008, Number 07. However, the will was declared void or invalid, because it turned out that the maker of the will was seriously ill and could not think regularly. In addition, in the making of the will there was coercion from one of the heirs against the testator, which was intended so that one of the heirs would get the inheritance as desired. In other words, the testator is not capable of making a will. Of course this will have implications for how to withdraw the inheritance controlled by unqualified heirs.

In essence, a will that is made will have binding legal force if the will has never been revoked, either unilaterally or expressly, as long as the will is not contrary to the law and the maker of the will has been declared dead, then the will comes into effect and has binding legal force, showing the recipient of the will as the rightful owner of the inherited property.<sup>7</sup> Furthermore, in making a will (testament), there are conditions that must be met by the testator, the first is reasonable, this is regulated in Article 895 of the Civil Code, in making or revoking a will (testament), the testator must be reasonable or said to be sane. The second is adulthood (age) which is regulated in Article 897 of the Civil Code, in making a will (testament) must be an adult, namely 18 years old or married. Third, the requirements for making a valid will, according to Articles 890 and 891 of the Civil Code, explain the reasons for the contents of a will (testament). Lastly, coercion and deception are regulated in Article 893 of the Civil Code which states that all wills (testaments) that have been made with elements of fraud (bedrog) or deception/bad faith (arglistig) and the element of coercion (dwang), then the will is null and void.<sup>8</sup> These four conditions must be met in the making of a will (testament) by the testator.

On the other hand, there are requirements that must be met before a person can receive a share of inheritance or inheritance rights. First, the person must be included as an heir (the heir has a blood relationship with the testator either legally or outside of marriage), and the person designated by the will made by the testator, with the intention of receiving the inheritance. Second, a person who is an heir must be capable of inheriting.<sup>9</sup> This is regulated in Article 912 of the Civil Code, the article explains that if the heir is incompetent then cancellation must be demanded.<sup>10</sup> Article 912 of the Civil Code, states,

---

<sup>7</sup> Helena Benedicta Tambajong, Rietha Lieke Lontoh, dan Annita T.S.F. Mangundap, "Akibat hukum pelaksanaan wasiat yang tidak memenuhi bagian mutlak ahli waris," *UNES Law Review* 6, no. 2 (2023): 7000,7003.

<sup>8</sup> Hartawati, Elvi Susanti Syam, dan Tarmizi, "Pembuatan surat wasiat terhadap ahli waris dalam masyarakat," *Journal of Lex Generalis (JLG)* 3, no. 9 (2022): 1566–69.

<sup>9</sup> Wati Rahmi Ria dan Muhamad Zulfikar, *Hukum waris berdasarkan sistem perdata barat dan kompilasi hukum Islam* (Bandar Lampung: Justice Publisher Bandar, 2018).

<sup>10</sup> H Moh. Aminuddin, "Penetapan ahli waris dan pembagian warisan," *Media Bina Ilmiah* 13, no. 6 (2019): 1293–94, <https://doi.org/10.33758/mbi.v13i6.207>.

"A person who has been sentenced for killing the testator, a person who has embezzled, destroyed or forged the testator's will, or a person who by force or violence has prevented the testator from revoking or changing his will, as well as his wife or husband and his children, may not enjoy any benefit from the will."

Based on the description above, what legal efforts can be made by the aggrieved heirs to withdraw the inheritance that has been controlled by other heirs based on a forged will. According to the author, there are various efforts that can be made by the aggrieved heirs, such as through the efforts of the Right of Hereditatis Petitio, the efforts of the Right to Demand the Distribution of Inheritance, and Unlawful Acts through Article 1365 of the Civil Code. Based on the various efforts above, by comparing the advantages and disadvantages of these efforts, the effort through the right of hereditatis petitio is the most appropriate effort to withdraw the inheritance controlled by one of the heirs.

## **2. METHOD**

This research method uses normative legal research. Normative legal research is legal research that focuses on written regulations or norms (law in books) or research based on laws that occur in society. Normative research is said to be a literature study research in which most of the data sources consist of primary legal materials and secondary legal materials. Most of the data comes from written laws or regulations applied in society.<sup>11</sup> In making this writing, the author uses a statutory approach (Statute Approach), the author will analyze based on primary legal materials, namely statutory regulations, namely the Civil Code and secondary legal materials, namely legal materials that provide an explanation of primary legal materials which include, research results and scientific journals.

## **3. DISCUSSION**

### **3.1. Inheritance System in Indonesia**

Customary inheritance law, when talking about customary law, is a form of oral law. Customary law originates from knowledge about the needs and desires of humans to live morally, thus, customary law is a manifestation of culture that contains the content of human thoughts and feelings.<sup>12</sup> Due to the diverse lineage systems in Indonesia, customary inheritance law actually varies by tribe or ethnic group, or it can also be said to be pluralistic.<sup>13</sup> Hazairin argues that Indonesian customary law has three systems of inheritance law, these systems are as follows,<sup>14</sup> The first is the Individual system, this system is an inheritance system that determines that the heirs inherit the inheritance property is given individually, the characteristic of this inheritance is that the inheritance is divided into each descendant. The second is the collective system. This method is a system of inheritance when the inheritance is

---

<sup>11</sup> Muhammad Siddiq Armia, *Penentuan Metode Dan Pendekatan Penelitian Hukum* (Lembaga Kajian Konstitusi Indonesia (Lkii) 2022)

<sup>12</sup> M. Syaikhul Arif, "Mengenal sistem hukum waris adat," *Siyasah: Jurnal Hukum Tata Negara* 5, no. 1 (2022): 22.

<sup>13</sup> Muhammad Asykur muchtar, "Analisis Terhadap Sistem Pembagian Harta Warisan," *Justisi* 4, no. 2 (2019): 69. <https://doi.org/10.33506/js.v4i2.532>

<sup>14</sup> *Ibid.*

not divided individually, with the characteristics of the inheritance being inherited together. The third is the majorate system, which is a system of inheritance regarding the transfer of undivided property control rights and is delegated to a child alone, the characteristic is that the inheritance will be inherited in whole or in part to his descendants.

Islamic inheritance law, is a rule intended to regulate matters of ownership of a person who dies to legal heirs. Looking at the provisions of Article 171 letter a of the Compilation of Islamic Law (KHI) states, "Inheritance law is a law that regulates the transfer of ownership of the heir's estate (tirkah), determining who is entitled to become heirs and how much each part is." From this interpretation, it can be said that in the Islamic inheritance system there are also heirs and heirs. The heir according to the provisions of Article 171 letter b KHI states, "The heir is a person who at the time of death or who is declared dead based on a court decision is Muslim, leaving heirs and property." While the heirs are contained in Article 171 letter c KHI which states, "Heirs are people who at the time of death have a blood relationship or marital relationship with the testator, are Muslims and are not hindered by law to become heirs." Heirs according to Islamic inheritance law are divided into two types, including:<sup>15</sup> First, nasabiyah heirs, are heirs who are bound because of one family, this shows the relationship between the testator and the heir; Second, sababiyah heirs, are heirs who are related to each other because of marriage, freeing slaves, or helping agreements. In addition to the things that have been described in Islamic law inheritance, adheres to an individual inheritance system, which means that after the testator dies, the testator's property can be divided between the heirs and each heir has the right to claim part of the wealth they have.

Western civil law, seen from the conception of the Burgerlijk Wetboek which is another name for the Civil Code, provisions relating to the inheritance of goods from the death of a person and transferred to the heirs are the meaning of inheritance law.<sup>16</sup> As stated in Article 830 of the Civil Code, the main condition for inheritance is death. In addition, in the inheritance of western civil law adheres to various principles of inheritance, including, among others, the principle of applying the provisions of the law on inheritance, the principle that inheritance law recognizes the testator, the principle of inheritance law recognizes the heir, the principle of dying together will not inherit each other.<sup>17</sup>

Judging from the inheritance system in Indonesia, it can be said that inheritance is the property left by someone called the testator to the heirs. Regarding the testator's property, it will be divided to the heirs in accordance with the law applicable to the testator. If there is a dispute between the heirs over the inheritance left by the testator, the aggrieved heirs can file a lawsuit in court against their inheritance rights. Heirs are free to choose whether to file a

---

<sup>15</sup> Dika Ratu Marfu'atun et al., "Pembagian harta warisan berdasarkan perspektif hukum perdata dan hukum Islam," *Konsensus: Jurnal Ilmu Pertahanan, Hukum dan Ilmu Komunikasi* 1, no. 4 (2024): 229–235, <https://doi.org/10.62383/konsensus.v1i4.283>.

<sup>16</sup> Diana Anisya Fitri Suhartono, Naysha Nur Azizah, dan Claressia Sirikiet Wibisono, "Sistem pewarisan menurut hukum perdata," *Jurnal Hukum, Politik dan Ilmu Sosial* 1, no. 3 (27 Desember 2022): 204–14, <https://doi.org/10.55606/jhps.v1i3.921>.

<sup>17</sup> Budayati, *Loc. Cit.* 26–30.

lawsuit in the district or religious court. But the two courts have significant differences in their approach to inheritance disputes. The District Court tends to focus on the application of the principles of written civil law, such as in the Civil Code (KUHPerdata), while the Religious Court emphasizes the principles of Islamic law and the interpretation of sharia.<sup>18</sup>

### **3.2. Withdrawal of Inheritance Property Controlled by One of the Heirs**

#### **3.2.1. Withdrawal of Inheritance Assets Controlled by One of the Heirs Based on the Provisions of Inheritance**

The issue of disputes in inheritance law that often arises regarding the distribution of property, the problem is the prioritization of who is the priority in the distribution of inheritance after the testator dies. Which one should be prioritized, heirs based on the law "ab intestato" or through a will "ad testamento". If seen in the provisions of civil law inheritance, heirs based on a will "ad testamento" take precedence, provided that the contents of the will and the distribution of the inheritance contained in the will do not conflict with the law.<sup>19</sup> A will that is not contrary to the laws and regulations in civil law inheritance is not violating the rights of other heirs, each heir has an absolute share of the inherited property (legitime portie). Legitime portie is an absolute part of the heirs protected by law, which must be received by the heirs who are entitled and unencumbered by any conditions.<sup>20</sup> Basically, the implementation of a will must not exceed the legitime portie, if this happens it will cause inheritance disputes to occur, namely the control of inheritance property that is not his right by one of the heirs.

In western law inheritance, every heir ab intestato and ad testamento, has the same position. The same position means that each heir has the same rights.<sup>21</sup> The rights referred to are:

Hak Saisine, this right can be found in Article 833 paragraph (1) of the Civil Code, which states, "The heirs, automatically by law, get the right of ownership of all goods, all rights and all receivables of the person who died." The article explains that if someone has died, then it results in the heirs automatically by law, receiving all the rights and obligations left by the testator, without any submission or legal action.<sup>22</sup>

The right of hereditatis petitio is one of the efforts for heirs who feel aggrieved, to file a

---

<sup>18</sup> Lestari Wulandari S, "Penyelesaian sengketa waris dalam hukum perdata di Indonesia," *Indonesian Journal of Intellectual Publication* 3, no. 1 (27 November 2022): 100–105, <https://doi.org/10.51577/ijipublication.v3i1.545>.

<sup>19</sup> Berty Willy Wongkar, Cornelius Tangkere, dan Mercy M. M. Setlight, "Penyelesaian hukum penyerobotan tanah warisan menurut legitime portie dalam hukum waris perdata," *Lex Administratum* 9, no. 1 (2021): 31–38.

<sup>20</sup> Shinta Andriyani, Wiwiek Wahyuningsih, dan Mohammad Irfan, "Konsep dan pengaturan legitime portie dalam pewarisan menurut kompilasi hukum Islam dan Kitab Undang-Undang Hukum Perdata," *JATISWARA* 36, no. 1 (31 Maret 2021): 92–103, <https://doi.org/10.29303/jtsw.v36i1.283>.

<sup>21</sup> Nadia Boyoh, Engeline R. Palandeng, dan Jemmy Sondakh, "Kekuatan hukum surat wasiat sebagai bukti kepemilikan tanah warisan yang sah menurut Kitab Undang-Undang Hukum Perdata," *Lex Privatum* 9, no. 4 (2021): 98–99.

<sup>22</sup> Rinrin Warisni Pribadi, "Tinjauan hukum perdata dan kompilasi hukum Islam terhadap hak waris anak dalam kandungan," *Jurnal At-Tatbiq: Jurnal Ahwal al-Syakhsyiyah* 7, no. 1 (2022): 53–63, <https://doi.org/10.31316/jk.v8i1.6418>.

lawsuit with the intention of protecting their inheritance rights.<sup>23</sup> Article 834 of the Civil Code states, "Each heir has the right to file a lawsuit to fight for his inheritance rights, against all those, either on the same basis, either without the basis of any right to control all or part of the inheritance, as well as against those who have cunningly stopped their control. Such a lawsuit is to demand, so that it is handed over to him, everything that by virtue of any right is also contained in the inheritance along with all the results, income and compensation, according to the rules contained in the third chapter of this book against the lawsuit for the return of property." Based on the explanation of the article above, the Right Hereditatis Petitio is the right to sue an heir who occupies half or all of the inherited property that should belong to him.<sup>24</sup> The right of hereditatis petitio can be used within 30 years of the opening of the inheritance, then after 30 years the right of hereditatis petitio will be waived.<sup>25</sup>

The right to demand the division of inheritance is contained in Article 1066 of the Civil Code, which states that, "No one is required to accept the continuation of the estate in an undivided state. The separation of the inheritance can be demanded at any time, despite provisions to the contrary. However, an agreement can be made not to carry out the separation of the inheritance for a certain time. Such an agreement is only binding for five years, but each time the period passes the agreement can be renewed." The conclusion from this article is that if one of the heirs demands the division of the inheritance, then the other heirs are prohibited from refusing the request for the division of the inheritance.<sup>26</sup>

A deed of testamentary bequest whose contents violate the absolute share of the heirs should be considered "null and void", but in practice a deed of testamentary bequest remains valid, even though its contents violate the absolute share of other heirs (legitimate heirs), as long as it has not been canceled by the aggrieved heirs, so it can be said that its nature is no longer "null and void" but rather becomes "revocable".<sup>27</sup> Therefore, with the rights of the heirs, if a dispute arises between the heirs over the inheritance, there are efforts for the heirs who are disadvantaged due to the inheritance controlled by one of the other heirs, namely through the right of hereditatis petitio and the right to demand the distribution of the inheritance. Therefore, if we look at the example, the position of the case in Decision No. 214 PK/Pdt/2017, through the right of hereditatis petitio, the aggrieved heir can take property from the hands of other heirs, which is then followed by applying or demanding the distribution of inheritance as in Article 1066 of the Civil Code.

---

<sup>23</sup> Rosida Idrus Aprilianti, *Hukum waris menurut Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek)*, 1 ed. (Justice Publisher, 2015).

<sup>24</sup> Putra Alexander Sitepu, "Analisis hukum pembuatan akta wasiat di hadapan notaris yang dibatalkan oleh pengadilan (Studi putusan Mahkamah Agung nomor 3124K/PDT/2013)," *Nommensen Journal of Legal Opinion* 3, no. 1 (31 Januari 2022): 96–110, <https://doi.org/10.51622/njlo.v3i1.465>.

<sup>25</sup> Aprilianti, *Loc. Cit.*

<sup>26</sup> Mia Putri Suci Anggraini, Nourma Dewi, dan Suparwi, "Penyelesaian sengketa harta warisan yang dikuasai oleh salah satu ahli waris (Studi kasus perkara nomor 10/Pdt. G/2020/PN. Skt)," *Jurnal Bevinding* 1, no. 5 (2023): 1–8.

<sup>27</sup> Nurhalimah Br Sebayang, Hasim Purba, dan T. Keizerina Devi A., "Pembatalan akta hibah akibat pelanggaran hak mutlak ahli waris legitimaris: Putusan Mahkamah Agung nomor 2954K/PDT/2017," *Kultura: Jurnal Ilmu Hukum, Sosial, dan Humaniora* 2, no. 7 (2024): 31–46, <https://doi.org/10.31316/jk.v8i1.6418>.

### 3.2.2. Withdrawal of Inheritance Assets Controlled by One of the Heirs Based on Unlawful Acts

In addition to using the provisions of inheritance, the aggrieved heirs can also file a lawsuit claiming unlawful acts as happened in Decision No. 214 PK / Pdt / 2017 where there is control or ownership of inherited property based on a will that is canceled by the aggrieved heirs, due to the control of part of the inherited property in an invalid will, where the testator is sick and there is coercion from one of the heirs. With the control of the inheritance of an heir, his actions can be said to be unlawful. According to western civil law, unlawful acts are actions that violate legal regulations that produce legal consequences. Unlawful acts are listed in Article 1365 of the Civil Code which states.

"Every unlawful act that causes damage to another obliges the person who has caused the damage to compensate for the damage."

In other words, a tort is an unlawful act committed by a person whose wrongdoing causes harm.<sup>28</sup> Looking at Article 1365 an action if it fulfills the following elements, the existence of a tort, fault, loss, and the relationship between the loss and the tort, it can be considered a tort. Explained further as follows.<sup>29</sup>

The tort itself comes from the Dutch "onrechtmatige daad" and in English it is known as "tort". Tort itself has a specific meaning of "wrong" in civil wrongs that do not originate from default. The word "tort" is Latin, namely "torquere" or "tortus" in French, just like the word wrong comes from French, which means wrong or injury.<sup>30</sup> Unlawful acts have a narrow and broad meaning. Unlawful conduct narrowly means conduct that is not in accordance with regulations. Unlawful acts are broadly defined as actions that are incompatible with morality, rape the rights of others, contradict the obligations of law makers, and the decency of the society that depends on the place of unlawfulness.<sup>31</sup> Actions that are not in accordance with morality are unlawful actions based on morality norms, it is necessary to prove that these morality norms are legal norms that exist in society. The act of raping the rights of others in inheritance is defined as an act that is contrary to the subjective rights of an heir, where the power comes from legal regulations. Acts that violate legal obligations, are actions that violate legal obligations that should be fulfilled by the perpetrator, this can be categorized as unlawful acts.<sup>32</sup> Based on this understanding, unlawful acts are not just acts that violate legislation, but also violate the rights of others and conflict with their own legal obligations. In addition, it is

---

<sup>28</sup> Alya Hafizha dan Endang Suparsetyani, "Analisis yuridis terhadap pembagian harta warisan almarhum Tanudibroto alias Tan Thong Yam kepada ahli waris yang melakukan perbuatan melawan hukum menurut ketentuan kitab Undang-Undang Hukum Perdata (Studi putusan Pengadilan Negeri Jakarta Timur nomor 23," *Reformasi Hukum Trisakti* 1, no. 1 (30 Juni 2019): 1–7, <https://doi.org/10.25105/refor.v1i1.10530>.

<sup>29</sup> I Sari, "Perbuatan Melawan Hukum (PMH) dalam hukum pidana dan hukum perdata," *Jurnal Ilmiah Hukum Dirgantara* 11, no. 1 (1 September 2020): 53,55, <https://doi.org/10.35968/jh.v11i1.651>.

<sup>30</sup> Masnida Malau, Yuniar Rahmatiar, dan Muhamad Abas, "Perbuatan melawan hukum atas penyerobotan tanah milik orang lain dihubungkan dengan pasal 1365 KUH Perdata," *Binamulia Hukum* 12, no. 2 (21 Desember 2023): 299–307, <https://doi.org/10.37893/jbh.v12i2.427>.

<sup>31</sup> Christiana Tri Budayati, *Mengenal hukum perdata di Indonesia* (Salatiga: Griya Media, 2017).

<sup>32</sup> Harumsari Puspa Wardhani dan Ayup Suran Ningsih, "Perbuatan melawan hukum dalam hukum perikatan: Unsur-unsur perbuatan dan implikasi kewajiban ganti rugi," *The Prosecutor Law Review* 2, no. 1 (2024): 30–40.



also contrary to unwritten law, namely violating decency, prudence, and morality.<sup>33</sup> This element puts more emphasis on a person's actions that are not in accordance with the rules of law, both those that have been realized into regulations and those that exist in society. Unlawful acts in civil law that occur in Decision No. 214 PK / Pdt / 2017 is the control of inherited property controlled by one of the heirs through a will made under duress and in making the will the testator is sick or unable to express his opinion or last will properly. This of course violates the law that regulates the validity of a will, namely in Article 893 of the Civil Code which states, "all wills (testaments) that have been made with an element of coercion (dwang), fraud (bedrog) or bad faith (arglist)."

The second element is the existence of fault, this element of fault can be classified into two types, namely fault with intent and fault due to negligence. Willful misconduct is a form of action carried out that requires the intention of the heir or perpetrator, where the heir or perpetrator wants the action to be carried out and also wants the consequences of the action to arise.<sup>34</sup> The element of fault due to negligence is a form of action committed by someone who pays little attention to prohibitions so that they are not careful about the actions they take.<sup>35</sup> According to civil law expert Rutten, the element of fault must be present in a tort.<sup>36</sup> The element of fault in Decision No. 214 PK/Pdt/2017 related to the distribution of inheritance is that the heir intentionally controls the inheritance based on an invalid will, which causes harm to other heirs. This shows that the heirs are responsible for their actions, because they intentionally harm other heirs.

The third element is that there is a loss which is the result of a violation of the law including the obligation of the perpetrator to make compensation for the consequences of the act. Compensation in civil law is compensation to the victim that exceeds the amount of loss suffered by the victim. The loss here is the loss suffered by the victim. The existence of losses suffered by the victim is a condition or element that must be fulfilled based on Article 1365 of the Civil Code and losses in tort include material and immaterial losses.<sup>37</sup> In addition, compensation is also known by several terms, namely, nominal compensation, compensation, and punishment.<sup>38</sup> The element of loss in Decision No. 214 PK/Pdt/2017 is the loss suffered by one of the heirs due to a testamentary bequest that was carried out not in accordance with the provisions of inheritance. The loss in question is the right to obtain the inheritance of the testator over several inherited assets in the form of land and its buildings, jewelry and money

---

<sup>33</sup> Tegar Alfian dan I Ketut Oka Setiawan, "Kajian yuridis perbuatan melawan hukum dalam pembagian harta warisan (Studi kasus putusan nomor 388/Pdt. G/2020/Pn. Bdg)," *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan* 2, no. 1 (2022): 437–49.

<sup>34</sup> Tontji Christian Rafael, Rian Van Frits Kapitan, dan Frengky Ndaomanu, "Unsur kesengajaan dan aspek keperdataan dalam tindak pidana pasal 385 ke-4e KUHPidana," *UNES Law Review* 6, no. 3 (2024): 7944–53.

<sup>35</sup> Dicky W. Konontoa, Max Sepang, dan Roy R. Lembong, "Kealpaan yang mengakibatkan kematian orang lain menurut pasal 359 kitab undang-undang hukum pidana (KUHP)," *Lex Crimen* 11, no. 1 (2022): 35–44.

<sup>36</sup> Alfian dan Setiawan, *Loc. Cit.*

<sup>37</sup> Sari, *Op. Cit.* 53, 68.

<sup>38</sup> Titin Apriani, "Konsep Ganti Rugi Dalam Perbuatan Melawan Hukum Dan Wanprestasi Serta Sistem Pengaturannya Dalam KUH Perdata," *Ganec Swara* 15, no. 1 (March 6, 2021): 929–31, <https://doi.org/10.35327/gara.v15i1.193>.

from the sale of the testator's property.

The fourth element is the cause and effect of the loss and the unlawful act, this element is used to determine the relationship between the unlawful act committed by the heir and the loss caused, so that the heir who committed the unlawful act can be held liable.<sup>39</sup> In Decision No. 214 PK/Pdt/2017, the clause relationship between losses and unlawful acts is that one of the heirs feels that his rights have been harmed due to unlawful acts committed by the testator and other heirs.

The assets controlled by one of the heirs can be categorized as unlawful acts based on Article 1365 of the Civil Code. The unlawful act committed is due to the possession of inherited property by one of the heirs due to the cancellation of the will requested by other heirs. Against the control of inherited property in a will in the form of inherited property other than land, the heirs can file a lawsuit against the law based on Article 1365 of the Civil Code. So the heirs can file a civil lawsuit using tort to obtain their inheritance rights. In addition, the heirs can apply for compensation for losses stemming from the unlawful actions of other heirs who control the inherited property unilaterally.

Against the control of inherited property in a will in the form of land, the heirs can withdraw the inherited property based on Law No. 51 of 1960 concerning Prohibition of Use of Land Without the Permission of the Rightful Owner or his Attorney. Land belonging to other people that is controlled by a legal subject without rights is a form of criminal action.<sup>40</sup> Berdasarkan Undang-Undang *a quo* perbuatan yang dilakukan salah seorang ahli waris terkait penguasaan atas tanah yang menjadi milik ahli waris lainnya secara melawan hak serta melawan peraturan hukum yang berlaku. Tindakan ini berupa menempati tanah, melakukan pemagaran, mengusir pemilik tanah yang sebenarnya, dan lain sebagainya.<sup>41</sup> Law No. 51 of 1960 was issued in order to provide protection for land from unauthorized use by the rightful owner or his/her legal representative.

According to Article 2 of Law No. 51 of 1960, it states that,

"Use of land without the permission of the rightful owner or his/her authorized representative is prohibited."

Based on Article 2 of the Law *a quo*, using land without the permission of the authorized person is prohibited, and has a maximum penalty of 3 (three) months and a maximum fine of Rp 5,000 (five thousand Rupiah) as stipulated in Article 6 of the Law *a quo*.<sup>42</sup> However, the length of the sentence and the amount of the fine are not reasonable, as the amount of loss

---

<sup>39</sup> Namira Diffany Nuzan, Fernanda Naulisa Situmorang, dan Kaniko Dyon Geraldi, "Menelaah lebih dalam perbedaan perbuatan melawan hukum dan wanprestasi," *Jurnal Kewarganegaraan* 8, no. 1 (2024): 860–66, <https://doi.org/10.31316/jk.v8i1.6418>.

<sup>40</sup> Gunawan Djajaputra, Endang Pandamdari, dan Endyk M. Asror, "Analisis hak atas tanah dalam sengketa kepemilikan tanah beserta penyelesaiannya," *Synotic Law: Jurnal Ilmu Hukum* 1, no. 1 (30 Maret 2022): 45–56, <https://doi.org/10.56110/sl.v1i1.4>.

<sup>41</sup> H. Sumarja, M. Kamal, dan A. Arief, "Efektivitas penegakan hukum terhadap tindak pidana penyerobotan hak atas tanah," *Journal of Lex Philosophy (JLP)* 2, no. 5 (2024): 791–92.

<sup>42</sup> Della Rahmaswary, "Perlindungan hukum penyerobotan tanah hak milik dalam aspek pidana (Studi kasus nomor:24/g/2013/ptun-bl)," *Notarius* 12, no. 2 (2020): 731–42, <https://doi.org/10.14710/nts.v12i2.29012>.

suffered by the heirs in this case is much higher. Therefore, the threats of imprisonment and fines need to be updated.<sup>43</sup> Law No. 51 of 1960, it is felt that legal clarity is not guaranteed for the community because it needs to take a long and complicated path, which causes the hope of obtaining prosperity on land to be very long.<sup>44</sup> In the settlement process, there are several things that must be considered and done by victims in relation to land issues, one of which must be evidence, namely at least 2 valid evidence.<sup>45</sup>

### **3.3. Lawsuits Using the Right of Hereditatis Petitio are More Effective in Inheritance Lawsuits**

In the context of withdrawing inherited property, there are three legal remedies that can be considered as described, namely, through efforts using the Right of Hereditatis Petitio, then efforts using the right to demand the distribution of inherited property which is part of the inheritance provisions, and tort actions. Each of these remedies has characteristics, advantages, and disadvantages that need to be analyzed to determine which is most appropriate to use against inheritance disputes.

Regarding the Right of Hereditatis Petitio, if we look at Article 834 of the Civil Code, it has several advantages and disadvantages. Speaking of advantages, First is the Clear Legal Process, in the sense that this legal procedure is clear and structured, allowing heirs to directly demand the return of property. Second, minimal evidence is required, the heir only needs to prove his status as a legal heir without having to prove the fault of the controlling party and the heir proves that the disputed property is inherited property which is his inheritance right. Third is the clear expiration period, the provisions of this right have an expiration period of 30 years, providing sufficient time for the heirs to file a lawsuit. Regarding the weaknesses of the hereditatis petitio right, there are two, including, first, the expiration period, in the sense that using the hereditatis petitio right is not filed within 30 years, this right will be lost, so that the heirs have the potential to lose their rights if it is too late. In theory, if the inheritance is already open or what is known as the inheritance boedel, the heirs who feel aggrieved have the right to file a lawsuit to obtain their inheritance against all those who hold besit (control) over all or part of the inheritance with the basis of rights or without the basis of rights, but if 30 years have passed, the right to claim the inheritance is lost.<sup>46</sup> Second, the author argues that using this effort does not resolve internal conflicts, which means that this effort does not resolve conflicts between heirs if there is a dispute over the division of property, if you look at the

---

<sup>43</sup> Ilham Adi Negara, "Pertanggung jawaban pidana terhadap tindak pidana penguasaan tanah tanpa izin berdasarkan pasal 6 peraturan pemerintah pengganti undang-undang nomor 51 tahun 1960 tentang larangan pemakaian tanah tanpa izin yang berhak atau kuasanya," *PAJOL: Pakuan Justice Journal of Law* 2, no. 1 (2021): 1–10.

<sup>44</sup> H. Hardjoko, S. Rahman, dan B. Badaru, "Efektivitas penegakan hukum tindak pidana terhadap penyerobotan hak atas tanah di Kota Makassar," *Journal of Lex Generalis (JLG)* 3, no. 1 (2022): 36–48.

<sup>45</sup> Margie Gladies Sopacua, "Penyerobotan tanah secara tidak sah dalam perspektif pidana," *Jurnal Belo* 4, no. 2 (28 Februari 2019): 204–17, <https://doi.org/10.30598/belovol4issue2page204-217>.

<sup>46</sup> Andreas J Sinaga, "Paradigma hukum waris atas tanah yang tidak mengenal daluarsa setelah terbitnya UUPA," *Fiat Iustitia: Jurnal Hukum* 1, no. 1 (21 September 2020): 70–83, <https://doi.org/10.54367/fiat.v1i1.901>.

elements in Article 834, the main purpose of this right is to return the inheritance to the heirs who have legal inheritance rights by prosecuting, not to resolve conflicts between the heirs themselves, then this effort only focuses on prosecuting the return of inheritance but does not provide a solution to how the property should be divided between heirs.

When talking about expiration in Article 1967 of the Civil Code has also regulated it, which states.

"All legal claims, whether of a material or personal nature, are extinguished by the lapse of thirty years, while the person who points out the lapse of time, does not need to show a title, and against him cannot be filed a complaint based on bad faith."

The article states that after a period of 30 years, civil lawsuits become invalid, both personal and material. This means that if someone has a legal claim, they must file it within 30 years after the right arose or after they became aware of the violation of the right, and if it is related to inheritance, then the heirs who will make a claim must be no later than 30 years.

Exercising the right to demand the division of the estate, this right gives each heir, the right to request the separation and division of the estate. The right to demand the division of inheritance also has several advantages and disadvantages, this is also seen in Article 1066 of the Civil Code resolving conflicts between heirs, allowing conflict resolution between one heir and another and providing clarity regarding the division of inheritance. Then the second is flexibility in filing a lawsuit, which means that a lawsuit can be filed at any time without a certain time limit, as long as there is a conflict regarding the division. The weaknesses of the right to sue for the division of inheritance include, First, the process may be long, meaning that the mediation and litigation process can be time-consuming and costly, especially if there is a dispute between the heirs. Secondly, it requires proof of fair division, the heirs need to show that the proposed division is fair and in accordance with the law.

Furthermore, there is tort which refers to actions that harm another party, including the actions of one of the heirs, who does not distribute the inheritance that he is not entitled to or unlawfully controls the inheritance. Efforts through tort have several advantages and disadvantages, seen from Article 1365 of the Civil Code. The first advantage is that it can claim compensation, if there is a loss due to an unlawful act, the heirs can claim compensation from the guilty party. The second advantage is that the legal process through a tort lawsuit can produce a clear decision regarding the rights of each heir, thus providing justice and legal certainty. In addition to the advantages, the tort action also has disadvantages, namely, a complicated legal process, which means that the aggrieved heirs must prove four (4) elements of the tort action, namely, unlawful acts, mistakes, losses, and causality between losses and unlawful acts.

In determining what legal remedies are most appropriate to withdraw the inheritance due to the existence of a null and void will, because the will in the process of making it is not in line with existing legal norms, where the testator is sick and there is coercion from one of

the heirs. According to the author, the most appropriate effort to withdraw the inheritance controlled by one of the heirs, based on an invalid will, is the right of hereditatis petitio because in proving this effort only has two burdens of proof, first, the heir only needs to prove that he is an heir, second, the heir proves that the disputed inheritance is the inheritance to which he is entitled. So with simple proof, the process using this effort will be easier. If compared to other efforts, for example using tort efforts, it requires four burdens of proof, namely tort, fault, loss, and causality between the loss and the tort, then the implications of the many burdens of proof, the process of inheritance disputes will become more complicated. Therefore, the hereditatis petitio is the right way to litigate inheritance disputes.

#### 4. CONCLUSION

Based on the explanation above, the author can conclude that if there is inherited property controlled by one of the heirs, then other eligible heirs can defend their inheritance rights, through civil rights that rely on the rights of heirs, namely using efforts through hereditatis petitio rights, efforts to demand the distribution of inheritance and based on other civil rights, namely through tort claims. By paying attention to the advantages and disadvantages of each of the inheritance efforts and efforts to withdraw the inheritance through tort, a civil lawsuit through the hereditatis petitio right effort will be more effective than a lawsuit through tort and the right to demand the distribution of inheritance, because the burden of proof through the hereditatis petitio effort is simpler than the other two efforts, which will affect the course of the dispute process. However, it should also be noted that the choice of which law to use is an agreement of the heirs. In decision No. 214 PK/Pdt/2017, the will was declared invalid. so whether or not the legitime portie can be used, it can only be done if the heirs agree to resolve the inheritance dispute based on civil inheritance law.

#### REFERENSI

- Alfian, Tegar, dan I Ketut Oka Setiawan. "Kajian yuridis perbuatan melawan hukum dalam pembagian harta warisan (Studi kasus putusan nomor 388/Pdt. G/2020/Pn. Bdg)." *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan* 2, no. 1 (2022): 437–49.
- Aminuddin, H Moh. "Penetapan ahli waris dan pembagian warisan." *Media Bina Ilmiah* 13, no. 6 (2019): 1293–94. <https://doi.org/10.33758/mbi.v13i6.207>.
- Andriyani, Shinta, Wiwiek Wahyuningsih, dan Mohammad Irfan. "Konsep dan pengaturan legitime portie dalam pewarisan menurut kompilasi hukum Islam dan Kitab Undang-Undang Hukum Perdata." *JATISWARA* 36, no. 1 (31 Maret 2021): 92–103. <https://doi.org/10.29303/jtsw.v36i1.283>.
- Anggraini, Mia Putri Suci, Nourma Dewi, dan Suparwi. "Penyelesaian sengketa harta warisan yang dikuasai oleh salah satu ahli waris (Studi kasus perkara nomor 10/Pdt. G/2020/PN. Skt)." *Jurnal Bevinding* 1, no. 5 (2023): 1–8.
- Apriani, Titin. "Konsep ganti rugi dalam perbuatan melawan hukum dan wanprestasi serta sistem pengaturannya dalam KUH Perdata." *Ganec Swara* 15, no. 1 (6 Maret 2021): 929–31. <https://doi.org/10.35327/gara.v15i1.193>.

- Aprilianti, Rosida Idrus. *Hukum waris menurut Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek)*. 1 ed. Justice Publisher, 2015.
- Arif, M. Syaikhul. "Mengenal sistem hukum waris adat." *Siyasah: Jurnal Hukum Tata Negara* 5, no. 1 (2022): 22.
- Armia, Muhammad Siddiq. *Penentuan Metode Dan Pendekatan Penelitian Hukum*. Lembaga Kajian Konstitusi Indonesia (Lkii), 2022.
- Boyoh, Nadia, Engeline R. Palandeng, dan Jemmy Sondakh. "Kekuatan hukum surat wasiat sebagai bukti kepemilikan tanah warisan yang sah menurut Kitab Undang-Undang Hukum Perdata." *Lex Privatum* 9, no. 4 (2021): 98–99.
- Budayati, Christiana Tri. *Mengenal hukum perdata di Indonesia*. Salatiga: Griya Media, 2017.
- . *Mengenal hukum waris*. 1 ed. Salatiga: Griya Media, 2018.
- Djajaputra, Gunawan, Endang Pandamdari, dan Endyk M. Asror. "Analisis hak atas tanah dalam sengketa kepemilikan tanah beserta penyelesaiannya." *Synotic Law: Jurnal Ilmu Hukum* 1, no. 1 (30 Maret 2022): 45–56. <https://doi.org/10.56110/sl.v1i1.4>.
- Ginting, Yuni Priskila, Ekklesia Naully, Elisabeth Rynanthie Maya Puteri, Elsa Finelia Kumagap, Jennifer Eve, Joanne Natasha Sugianto, dan Violen Ester Stefana. "Sosialisasi pembuktian kasus hukum waris." *Jurnal Pengabdian West Science* 2, no. 11 (30 November 2023): 1183–94. <https://doi.org/10.58812/jpws.v2i11.786>.
- Hafizha, Alya, dan Endang Suparsetyani. "Analisis yuridis terhadap pembagian harta warisan almarhum Tanudibroto alias Tan Thong Yam kepada ahli waris yang melakukan perbuatan melawan hukum menurut ketentuan kitab Undang-Undang Hukum Perdata (Studi putusan Pengadilan Negeri Jakarta Timur nomor 23." *Reformasi Hukum Trisakti* 1, no. 1 (30 Juni 2019): 1–7. <https://doi.org/10.25105/refor.v1i1.10530>.
- Hardjoko, H., S. Rahman, dan B. Badaru. "Efektivitas penegakan hukum tindak pidana terhadap penyerobotan hak atas tanah di Kota Makassar." *Journal of Lex Generalis (JLG)* 3, no. 1 (2022): 36–48.
- Hariyanto, Budi. "Tinjauan yuridis terhadap pembagian harta waris beda agama menurut kitab undang undang hukum perdata (KUHP Perdata) dan kompilasi hukum Islam (KHI)." *IUS* 8, no. 2 (17 Januari 2021): 28–42. <https://doi.org/10.51747/ius.v8i2.688>.
- Hartawati, Elvi Susanti Syam, dan Tarmizi. "Pembuatan surat wasiat terhadap ahli waris dalam masyarakat." *Journal of Lex Generalis (JLG)* 3, no. 9 (2022): 1566–69.
- Hermoyo, Bambang, dan Shinta Rukmi Budiastuti. "Hibah wasiat (testament) dan pelaksanaannya." *Adi Widya: Jurnal Pengabdian Masyarakat* 5, no. 2 (2021): 10,12. <https://doi.org/10.33061/awpm.v5i2.6024>.
- Ilham, Muhammad, et al. "Proses Penyelesaian Tindak Pidana Berdasarkan Adat Suku Moi (Studi Kasus di Polres Kota Sorong)." *JUSTISI* 8.1 (2022): 40–54. <https://doi.org/10.33506/js.v8i1.1503>
- Kartikawati, Dwi Ratna. *Hukum waris perdata sinergi hukum waris perdata dengan hukum waris Islam*. 1 ed. Bekasi: CV. Elvaretta Buana, 2021.

- Konontoa, Dicky W., Max Sepang, dan Roy R. Lembong. "Kealpaan yang mengakibatkan kematian orang lain menurut pasal 359 kitab undang-undang hukum pidana (KUHP)." *Lex Crimen* 11, no. 1 (2022): 35–44.
- Malau, Masnida, Yuniar Rahmatiar, dan Muhamad Abas. "Perbuatan melawan hukum atas penyerobotan tanah milik orang lain dihubungkan dengan pasal 1365 KUH Perdata." *Binamulia Hukum* 12, no. 2 (21 Desember 2023): 299–307. <https://doi.org/10.37893/jbh.v12i2.427>.
- Marfu'atun, Dika Ratu, Asep Dharmawan, Natasha Apriliani, dan Sofia Billa Paradise. "Pembagian harta warisan berdasarkan perspektif hukum perdata dan hukum Islam." *Konsensus: Jurnal Ilmu Pertahanan, Hukum dan Ilmu Komunikasi* 1, no. 4 (2024): 229–235. <https://doi.org/10.62383/konsensus.v1i4.283>.
- Muchtar, Muhammad Asykur. "Analisis Terhadap Sistem Pembagian Harta Warisan," *Justisi* 4, no. 2 (2019): 69. <https://doi.org/10.33506/js.v4i2.532>
- Negara, Ilham Adi. "Pertanggung jawaban pidana terhadap tindak pidana penguasaan tanah tanpa izin berdasarkan pasal 6 peraturan pemerintah pengganti undang-undang nomor 51 tahun 1960 tentang larangan pemakaian tanah tanpa izin yang berhak atau kuasanya." *PAJOL: Pakuan Justice Journal of Law* 2, no. 1 (2021): 1–10.
- Nuzan, Namira Diffany, Fernanda Naulisa Situmorang, dan Kaniko Dyon Geraldi. "Menelaah lebih dalam perbedaan perbuatan melawan hukum dan wanprestasi." *Jurnal Kewarganegaraan* 8, no. 1 (2024): 860–66. <https://doi.org/10.31316/jk.v8i1.6418>.
- Palayukan, Yayu. "Tanggung jawab ahli waris terhadap harta warisan pewaris menurut Kitab Undang-Undang Hukum Perdata." *Lex Privatum* 9, no. 4 (2021): 130–38.
- Pribadi, Rinrin Warisni. "Tinjauan hukum perdata dan kompilasi hukum Islam terhadap hak waris anak dalam kandungan." *Jurnal At-Tatbiq: Jurnal Ahwal al-Syakhsyiyah* 7, no. 1 (2022): 53–63. <https://doi.org/10.31316/jk.v8i1.6418>.
- Prodjodikoro, Wirjono. *Perbuatan melawan hukum*. Cet 1. Bandung: Mandar Maju, 2018.
- Rafael, Tontji Christian, Rian Van Frits Kapitan, dan Frengky Ndaomanu. "Unsur kesengajaan dan aspek keperdataan dalam tindak pidana pasal 385 ke-4e KUHPidana." *UNES Law Review* 6, no. 3 (2024): 7944–53.
- Rahmaswary, Della. "Perlindungan hukum penyerobotan tanah hak milik dalam aspek pidana (Studi kasus nomor:24/g/2013/ptun-bl)." *Notarius* 12, no. 2 (2020): 731–42. <https://doi.org/10.14710/nts.v12i2.29012>.
- Ria, Wati Rahmi, dan Muhamad Zulfikar. *Hukum waris berdasarkan sistem perdata barat dan kompilasi hukum Islam*. Bandar Lampung: Justice Publisher Bandar, 2018.
- Sari, I. "Perbuatan Melawan Hukum (PMH) dalam hukum pidana dan hukum perdata." *Jurnal Ilmiah Hukum Dirgantara* 11, no. 1 (1 September 2020): 53,55. <https://doi.org/10.35968/jh.v11i1.651>
- Sebayang, Nurhalimah Br, Hasim Purba, dan T. Keizerina Devi A. "Pembatalan akta hibah akibat pelanggaran hak mutlak ahli waris legitimaris: Putusan Mahkamah Agung nomor 2954K/PDT/2017." *Kultura: Jurnal Ilmu Hukum, Sosial, dan Humaniora* 2, no. 7 (2024): 31–46. <https://doi.org/10.31316/jk.v8i1.6418>.

- Sinaga, Andreas J. "Paradigma hukum waris atas tanah yang tidak mengenal daluarsa setelah terbitnya UUPA." *Fiat Iustitia: Jurnal Hukum* 1, no. 1 (21 September 2020): 70–83. <https://doi.org/10.54367/fiat.v1i1.901>.
- Sitepu, Putra Alexander. "Analisis hukum pembuatan akta wasiat di hadapan notaris yang dibatalkan oleh pengadilan (Studi putusan Mahkamah Agung nomor 3124K/PDT/2013)." *Nommensen Journal of Legal Opinion* 3, no. 1 (31 Januari 2022): 96–110. <https://doi.org/10.51622/njlo.v3i1.465>
- Sopacua, Margie Gladies. "Penyerobotan tanah secara tidak sah dalam perspektif pidana." *Jurnal Belo* 4, no. 2 (28 Februari 2019): 204–17. <https://doi.org/10.30598/belovol4issue2 page204-217>
- Suhartono, Diana Anisya Fitri, Naysha Nur Azizah, dan Claessia Sirikiet Wibisono. "Sistem pewarisan menurut hukum perdata." *Jurnal Hukum, Politik dan Ilmu Sosial* 1, no. 3 (27 Desember 2022): 204–14. <https://doi.org/10.55606/jhpis.v1i3.921>.
- Sumarja, H., M. Kamal, dan A. Arief. "Efektivitas penegakan hukum terhadap tindak pidana penyerobotan hak atas tanah." *Journal of Lex Philosophy (JLP)* 2, no. 5 (2024): 791–92.
- Susanto, M. H., Y. Puspitasari, and M. H. M. Marwa. "Kedudukan Hak Keperdataan Anak Luar Kawin Perspektif Hukum Islam. JUSTISI, 7 (2), 105–117." 2021, <https://doi.org/10.33506/js.v7i2.1349>
- Tambajong, Helena Benedicta, Rietha Lieke Lontoh, dan Annita T.S.F. Mangundap. "Akibat hukum pelaksanaan wasiat yang tidak memenuhi bagian mutlak ahli waris." *UNES Law Review* 6, no. 2 (2023): 7000,7003.
- Thenata, Putu Davis Justin, Ryan Jovan Susanto, Jeanette Olivia Kurniawati, dan Jessica Carol Lee. "Perbuatan melawan hukum dalam kasus pertanahan studi perbandingan antara Indonesia dan Prancis." *Jurnal Syntax Admiration* 5, no. 12 (16 Desember 2024): 5284–96. <https://doi.org/10.46799/jsa.v5i12.1857>.
- Wardhani, Harumsari Puspa, dan Ayup Suran Ningsih. "Perbuatan melawan hukum dalam hukum perikatan: Unsur-unsur perbuatan dan implikasi kewajiban ganti rugi." *The Prosecutor Law Review* 2, no. 1 (2024): 30–40.
- Wongkar, Berty Willy, Cornelius Tangkere, dan Mercy M. M. Setlight. "Penyelesaian hukum penyerobotan tanah warisan menurut legitime portie dalam hukum waris perdata." *Lex Administratum* 9, no. 1 (2021): 31–38.
- Wulandari S, Lestari. "Penyelesaian sengketa waris dalam hukum perdata di Indonesia." *Indonesian Journal of Intellectual Publication* 3, no. 1 (27 November 2022): 100–105. <https://doi.org/10.51577/ijipublication.v3i1.545>.
- Yapen, Rahul Pieter S., Wahab Aznul Hidayat, and Muharuddin Muharuddin. "The Role of Correctional Institutions in the Development of Prisoners to Prevent Recidivism of Crimes in Sorong City." *Journal of Law Justice (JLJ)* 2.3 (2024): 162-176. <https://doi.org/10.33506/jlj.v2i3.3354>