



Concept of Non-Discrimination Letter of Inheritance Rights Based on Positive Law in Indonesia

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ABSTRACT

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The certificate of heirs serves to show who is entitled to the inheritance left by someone who has died (heir) which forms the basis for the department of inheritance each over who's entitled and/or how many stocks are entitled to be owned by using the heirs. There are 3 (3) officers for Making heir certificates, specifically Notary, Probate court and Lurah/Village heads and showed by means of the sub-district head. The question why the certificate of heirs is not made through only one reputable has its very own ancient historical past..The criminal arrangements that were in impact at that time in Indonesia did no longer offer felony truth, and at this country followed elegance discrimination. an appropriate is as a country that were unbiased from Dutch colonialism, which have to have abolished the type of the populace race in Indonesia. The classification of the populace race isn't according with Pancasila and the charter, because it includes the precept of discrimination and is a legacy of the nation that used to colonize Indonesia. At present Citizenship law variety 12 of 2006 which turned into surpassed on June 21, 2006 which in principle simplest acknowledges Indonesian citizens and foreign residents and now not mentions population type. in addition, law variety 23 of 2006 as amended by law wide variety 24 of 2013 regarding population administration has additionally abolished it. The non-discrimination precept is also said via regulation quantity 40 of 2008 regarding the removal of racial and ethnic discrimination. This law explicitly orders all elements of country management to do away with all forms of discrimination in opposition to race and ethnicity. consequently, non-discrimination principle need to be applied in inheritance certificates and the legal authentic in making the assertion of inheritance rights, by means of the officials who has the authority to put in writing it. Prioritizing the principle of non-discrimination is a need to.

INTRODUCTION

Until now there is no uncertainty regarding the legitimate who is authorized to make an inheritance certificate and the shape of the inheritance certificate because till now there are still three (3) officials for inheritor certificates, particularly Notary, Probate courtroom and lurah/head village and confirmed by means of the sub-district head and every legit has his personal shape of inheritance certificate along with a notary creating a deed of inheritance right, history center for inheritance certificates while the lurah/Village head is showed by means of the Camat in the shape of a certificate of heirs made with the aid of the heirs witnessed through witnesses corroborated with the aid of the Lurah/Village Head and Camat.

the guideline of regulation remains encouraged by way of the provisions in pressure during the reign of the Dutch government in Indonesia, particularly Article 163 IS and Article 131 IS (Indische Staatsregeling), particularly a simple constitutional regulation enforced by means of the Dutch authorities in the Dutch East Indies

(Indonesia) which regulates population classification, for accommodate the pursuits of the Dutch authorities whilst occupying the territory of Indonesia.

The prison arrangements that were in effect at that time in Indonesia did no longer offer prison certainty, as a rustic that have been unbiased from Dutch colonialism on the grounds that August 17, 1945, which should have abolished the class of the populace in Indonesia. The classification of the population is not in accordance with Pancasila and the 1945 constitution, because it contains the concept of discrimination and is a legacy of the nation that used to colonize Indonesia with the concept of "divide et impera".

RESEARCH METHODS

The methods research in this journal is a type of legal research using normative legal research methods beside this research also us approach of law (Statute Approach) and Conceptual Approach is a research method used by researchers to apply the current literature available to investigate a phenomenon.

RESULTS AND DISCUSSION

The certificates of heirs serves to prove who is entitled to the inheritance left through a person who has died (inheritor) which forms the premise for the department of inheritance both over who's entitled and/or what number of shares are entitled to be owned via the heirs. At gift, in exercise, there are 3 (3) officials for Making inheritor certificates, namely Notary, Probate courtroom and Lurah/Village heads and showed via the sub-district head. (Herlien Budiono,2013)

The prison foundation for the three officers to make a certificates of inheritance is primarily based on a letter from the Ministry of domestic Affairs, Directorate widespread of Agrarian Affairs, Directorate of Land Registration (kadastral) dated 20 December 1969 range Dpt/12/63/12/sixty nine concerning certificates of inheritance and proof of citizenship and Article 11 paragraph 1 letter c regulation of the Minister of Agrarian Affairs/Head of the countrywide Land business enterprise range 3 of 1997 regarding provisions for imposing authorities law quantity 24 of 1997 regarding land registration. the two legal guidelines practice to eu, chinese/chinese language, foreign easterners (except Arabs who are Muslims).

Chinese language/chinese, overseas easterners (except Arabs who're Muslim) show themselves as heirs based on a certificates of inheritance (SKW) drawn up by a Notary. As for the non-chinese/chinese jap overseas institution based on a certificate of Inheritance issued via the heritage company (BHP). The 1/3 group turned into previously called Indigenous (bumi son) based totally on a certificate of Inheritance made privately by means of the heirs themselves and recognised or justified by way of the lurah and sub-district head in step with the ultimate area of residence of the heir. (Habib Adjie,2017,8)

The guideline of regulation continues to be stimulated by way of the provisions in force during the reign of the Dutch authorities in Indonesia, specifically Article 163 IS and Article 131 IS (Indische Staatsregeling), namely a fundamental constitutional law enforced by way of the Dutch government within the Dutch East Indies (Indonesia) which regulates population category, for accommodate the interests of the Dutch authorities while occupying the territory of Indonesia.

The legal preparations that have been in impact at that point in Indonesia did no longer offer legal reality, as a country that have been independent from Dutch colonialism considering that August 17, 1945, which ought to have abolished the category of the populace in Indonesia. The type of the population is not in accordance with Pancasila and the 1945 constitution, because it contains the concept of discrimination and is a legacy of the state that used to colonize Indonesia with the idea of "divide et impera".

Citizenship regulation quantity sixty two of 1958 which has been abolished and renewed through law wide variety 12 of 2006 which changed into exceeded on June 21, 2006 which in principle most effective recognizes Indonesian residents and overseas residents and now not mentions populace category. further, law wide variety 23 of 2006 as amended by way of law number 24 of 2013 concerning populace management has additionally abolished populace category inside the administrative registration technique on the Civil Registry workplace, even as other prison policies that require the abolition of occupational type in Indonesia are law quantity forty of 2008 concerning the elimination of racial and ethnic discrimination. This law explicitly orders all factors of kingdom administration to eliminate all types of discrimination against race and ethnicity.

The certificates of heirs has a characteristic as proof which could prove who's entitled to the inheritance left by someone who has died (heir) that's the premise for dividing the inheritance each over who's entitled and/or how many elements are entitled owned by using the heirs in addition to the idea for the transfer of land rights to the national land organisation. however, until now there may be no uncertainty regarding the respectable who's authorized to make an inheritance certificates and the shape of the inheritance certificate because till now there are still three (3) officials for Making heir certificates, namely Notary, Probate court docket and Lurah/head Village and confirmed by way of the sub-district head and each authentic has his personal shape of inheritance certificates along with a Notary creating a Deed of Inheritance Rights, heritage center for Inheritance certificates while the Lurah/Village head is showed by using the Camat inside the form of a certificate of heirs made via the heirs witnessed by means of witnesses corroborated with the aid of the Lurah/Village Head and Camat

Juridically, the legal guidelines that underlie the abolition of the difference among European, Jap overseas and Bumiputera population organizations in Indonesia are numbers 1 and a pair of of the Ampera cabinet Presidential coaching No. 31/U/IN/12/1966 with the consideration that so one can obtain the improvement of a unified and homogeneous Indonesian kingdom, and there may be a sense of equality of fate among fellow Indonesians in order that it's far necessary as soon as possible to abolish practices based totally on populace categorization. The education contains a prohibition on classifying residents based on articles 131 and 161 IS for civil registration offices at some stage in Indonesia, Indonesian residents are simplest distinguished among Indonesian citizens and overseas nationals, however, within the Ampera cupboard Presidium instruction range forty one/U /IN/12/1966, there's a provision in quantity three which essentially states that the removal of the classification of the Indonesian populace best mainly applies to civil registration on the civil registry workplace, at the same time as the provisions concerning marriage, inheritance and other civil regulation provisions nonetheless refer to the vintage criminal rules . in addition to the Ampera cupboard Presidium training No. 31/U/IN/12/1966 after the Citizenship law,

Further to the practise of the Presidium of the Ampera cabinet range 31/U/IN/12/1966 after the Citizenship regulation, it's also contained in the law of the Minister of Agrarian Affairs and Spatial making plans/Head of the country wide Land business enterprise of the Republic of Indonesia variety 16 of 2021 concerning the 1/3 modification to the regulation of the Minister of nation for Agrarian Affairs /Head of the countrywide Land organisation wide variety 3 of 1997 regarding Provisions for the Implementation of government law quantity 24 of 1997 concerning Land Registration as stated in Article 111 paragraph (1) letter c which states that a letter of evidence as an inheritor can be in the form of: 1. a will from the inheritor; 2. courtroom selection; three. willpower of the judge/chairman of the court docket; 4. a statement of the heirs made by using the heirs witnessed by using 2 (two) witnesses and regarded through the village head/lurah and subdistrict head where the heir lives at the time of dying; five. certificates of inheritance rights from a Notary who's domiciled at the heir's residence on the time of loss of life; or 6. certificate of inheritance from the Probate courtroom. d. Written energy of legal professional from the heirs if the person filing the software for registration of the transfer of rights isn't always the heir worried; e. proof of identity of the heir.

CONCLUSION

The certificate of heirs has a function as evidence which could prove who's entitled to the inheritance left via a person who has died (heir) that is the premise for dividing the inheritance both over who is entitled and/or how many components are entitled owned with the aid of the heirs in addition to the basis for the transfer of land rights to the national land enterprise. however, until now there may be no uncertainty concerning the legitimate who's legal to make an inheritance certificates and the shape of the inheritance certificates because until now there are still three (3) officials for Making heir certificate, namely Notary, Probate courtroom and Lurah/head Village and confirmed via the sub-district head and every legit has his own shape of inheritance certificates including a Notary making a Deed of Inheritance Rights, history middle for Inheritance certificates at the same time as the Lurah/Village head is showed with the aid of the Camat within the shape of a certificates of heirs made via the heirs witnessed with the aid of witnesses corroborated by the Lurah/Village Head and Camat

Consequently, the idea of non-discrimination in the preparation of inheritance certificates is duly applied and the authorized respectable in making the statement of inheritance rights, in this situation, is a notary, Probate court docket or sub-district head, nevertheless adheres to the applicable laws and regulations, through prioritizing the concept of non-discrimination in letter inheritance making.

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