

Juridical Review of the Role of the Makassar Heritage Hall in Issuing Certificates of Inheritance

Muh Fikri Ramadani A. Nganro¹, La Ode Husen², Muh Zulkifli Muhdar³

¹Fakultas Hukum, Universitas Muslim Indonesia

² Fakultas Hukum, Universitas Muslim Indonesia

³ Fakultas Hukum, Universitas Muslim Indonesia

Surel Koresponden: andifikriramadani01@gmail.com

Abstract:

This study aims to analyze the legal force of the certificate of inheritance issued by the Balai Harta Peninggalan (Inheritance Affairs Office) in Makassar City, as well as the responsibilities of the office regarding the issuance of such certificates. The research employs a normative juridical method with legislative, conceptual, and case study approaches. The data used consist of primary, secondary, and tertiary legal materials, which are analyzed qualitatively. The results show that the certificate of inheritance issued by the Inheritance Affairs Office holds legal validity as long as it meets the requirements stipulated in the applicable laws and regulations. However, in practice, the implementation of this authority encounters several challenges, including inconsistencies in data that may affect the legitimacy of the certificate. Furthermore, the Inheritance Affairs Office bears full responsibility for ensuring the accuracy and validity of the information used as the basis for issuing the certificate, including being held accountable in cases of disputes arising from the issued documents. The recommendation of this study is to contribute to strengthening the understanding of the role and responsibilities of the Inheritance Affairs Office within the Indonesian inheritance law system.

Keywords: Certificate of Inheritance, Inheritance Rights, Inheritance Affairs Office, Legal Force, Legal Responsibility

Introduction

Based on the authority of the Heritage Hall (Balai Harta Peninggalan) in issuing Certificates of Inheritance Rights, as regulated in Article 3 of the Regulation of the Minister of Law and Human Rights Number 7 of 2021 concerning the Organization and Work Procedure of the Heritage Hall, it is stipulated that the Heritage Hall has the duty to carry out the function of issuing Certificates of Inheritance Rights. The Heritage Hall performs the following functions:

1. Administration and settlement of matters related to guardianship, trusteeship, assets whose owners are declared absent (*afwezigheid*), and inheritance property (*nalatenschap*).
2. Registration of unadministered wills (*onbeheerde*), opening and reading of secret/closed wills.
3. Issuance of certificates of inheritance rights.
4. Acting as a curator in the management, settlement, and liquidation of limited liability companies in bankruptcy matters.
5. Settlement and administration of third-party funds.
6. Preparation of program plans, budgeting, facilitation of bureaucratic reform, management of information technology and public relations, administrative and staffing affairs, management of financial matters, state-owned assets, and household affairs, as well as evaluation and reporting of the Heritage Hall.

7. Other duties as stipulated by laws and regulations.

Thus, the transfer of inheritance can be determined by the testator upon their death. The making of a testament is intended to ensure that the inherited property left behind can later be distributed according to the needs of each heir. The preparation of a will made by the testator during their lifetime can be carried out because every Indonesian citizen has the right to make a will in accordance with their own wishes and the law applicable to their respective legal group.

In relation to inheritance, it cannot be separated from the existence of a document (hereinafter referred to as the Certificate of Inheritance Rights), which serves as official proof containing the subjects of rights or heirs entitled to the inheritance of the deceased (testator). Regarding the authority to issue the Certificate of Inheritance Rights, Indonesia recognizes a pluralism of legal systems. This is stated in Article 111 of the Regulation of the Minister of Agrarian Affairs Number 3 of 1997 concerning the Implementation of Government Regulation Number 24 of 1997, letters (b) and (c). After the testator has passed away, any closed or secret will must be submitted to the Heritage Hall (*Balai Harta Peninggalan*) in the region where the inheritance is located. The legal documents made by the PPAT are considered authentic deeds. For example, the PPAT makes a Deed of Sale and Purchase/Akta Jual Beli (AJB) related to a legal subject who wants to sell their land to someone else.[2]

The management of inherited property cannot be separated from the principle of population classification. This classification not only influences the system of inheritance law applied—covering principles, calculations, and the distribution of inheritance—but also determines who has the authority to issue evidentiary documents, namely the Certificate of Inheritance. Specifically, there is no explicit legal basis that clearly regulates the issuance of such certificates. However, it is important to note that the Certificate of Inheritance is a crucial document in proving the status of heirs. Since inheritance matters often involve the transfer of rights, the preparation of the Certificate of Inheritance must be carried out carefully and thoroughly. To fulfill its function as valid evidence, the Certificate of Inheritance must be issued by an authorized official.[3]

In practice, many parties in society still provide inaccurate information to notaries when executing deeds. The notary's duty is to record the information provided by the parties without further investigating the truth of that information. As is commonly known, a notary is not authorized to investigate or verify the material truth of the statements given by the appearers.

This has an impact on the deed created by the notary, which may later become problematic. The issue arises in terms of the notary's accountability when making an authentic deed containing false statements provided by the appearers. The Law on the Position of Notary does not stipulate criminal liability for a notary regarding a deed made based on falsified information provided by the appearers. Errors found in deeds of inheritance statements may occur due to the content or form of the deed submitted by the appearers—such as when the listed heirs are incorrect or falsified, the supporting witness statements are inaccurate, or the notary makes mistakes in applying the provisions of inheritance law.[4]

One example of a case handled by the Heritage Hall (*Balai Harta Peninggalan*) concerning inheritance rights is a case involving the search for heirs, based on a local investigation conducted by the Heritage Hall. One such case handled by the Makassar Heritage Hall is registered under Number: W.23.AHU.AHU.2.AH.06-05.430 of 2022. Pursuant to Articles 1126–1129 of the Indonesian Civil Code in conjunction with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 7 of 2021, it was confirmed that the late Lie Kiem Seen, Lie Moa Seng, and Lie Lantjing, as recorded under Number W.23.AHU.AHU.2-AH.06-05.430 of 2022, did not have any identified heirs. In the investigation, assets were also found in the form of land and a building located at Jalan Jati No. 66, RT/RW 01/01, Nunu Subdistrict, Jatanga District, Palu City, which had not been managed or officially registered as legally owned property. Based on the death report issued by the Nunu

Subdistrict Office, the Makassar Heritage Hall conducted a local inspection and determined the assets to be unadministered property.

RESEARCH METHOD

In this research, a normative juridical approach is adopted, designed to analyze and examine the legal regulations related to the issuance of Certificates of Inheritance by the *Balai Harta Peninggalan* (BHP) or Heritage Hall in Makassar City. This approach provides a framework to explore the legal principles underlying the practices carried out by the institution and to understand how legal norms and regulations are applied in real-life situations.

The research is descriptive-analytical in nature, with the main objective of providing a comprehensive overview of the role and responsibilities of the *Balai Harta Peninggalan* in the process of issuing such certificates, as well as analyzing the legal validity of these documents.

Data collection was conducted through documentation techniques, involving the recording and compilation of various legal documents, statutory regulations, and secondary data relevant to the issue. This process also included a literature study, in which the author reviewed books, scholarly works, and relevant articles to gain a deeper theoretical understanding of the research subject.

In addition, the author conducted interviews with legal practitioners, notaries, and other relevant parties to obtain broader perspectives on the implementation of the *Balai Harta Peninggalan*'s authority. Legal materials were analyzed qualitatively, with the collected data described and interpreted to provide a clearer understanding of the legal force of the Certificate of Inheritance.

The analytical steps included developing a comprehensive data description and evaluating existing legal practices to identify potential challenges and obstacles that may arise during implementation in the field. Thus, this research is expected not only to provide in-depth insights into the role and responsibilities of the *Balai Harta Peninggalan* within Indonesia's inheritance law system but also to contribute practical guidance and recommendations for all stakeholders involved in the inheritance management process.

RESULT AND DISCUSSION

A. The Legal Force of the Certificate of Inheritance Issued by the Heritage Hall (Balai Harta Peninggalan) of Makassar City

The legal basis for the issuance of a Certificate of Inheritance, also known as *Surat Keterangan Hak Waris* (SKHW), lies in its nature as an official document made by or before an authorized official. Its content sets out who the legitimate heirs are and what rights they are entitled to, particularly regarding the assets left by the deceased. The Certificate of Inheritance serves as crucial evidence in determining heirs, especially in the process of transferring land ownership due to inheritance.

To prove that a person is a rightful heir of the deceased in the process of land registration, reference is made to Article 111 paragraph (1) letter (c) of the Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 concerning the Implementation Provisions of Government Regulation No. 24 of 1997 on Land Registration (PMNA 03/1997).

As long as the Certificate of Inheritance is issued by an official whose authority is stipulated in Article 111 paragraph (1) letter (c) of the Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 concerning the Implementation Provisions of Government Regulation No. 24 of 1997 on Land Registration (PMNA 03/1997), and in accordance with the provisions of Article 1868 of the Indonesian Civil Code (KUHPerdata) regarding the authenticity of a deed, the Certificate of Inheritance carries legal certainty.[5]

Based on Article 36 paragraph (1) in conjunction with Article 42 of Government Regulation No. 24 of 1997 concerning Land Registration, if a person who holds land rights passes away, the heir who inherits the land is obligated to apply for the registration of the transfer of ownership within six months from the date of the deceased's death. To meet the need for land, individuals may pursue various methods such as conducting land sales or initiating the release of land rights. One form of land rights transfer is through a

legal act of sale and purchase. A sale and purchase agreement is a reciprocal contract in which one party agrees to transfer ownership rights over a property, while the other party agrees to pay the agreed price as compensation for acquiring those ownership rights.[6]

The *Balai Harta Peninggalan* (Heritage Hall), according to the provisions of Article 14 paragraph (1) and the *Instruksi Voor de Gouvernements Landmeters* in *Staatsblad* 1916 No. 517, in conjunction with the Circular Letter of the Directorate of Land Registration No. Dpt/12/63/12/69 concerning Certificates of Inheritance and Proof of Citizenship, as well as the Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 on the Implementation Provisions of Government Regulation No. 24 of 1997 on Land Registration, is the authorized institution to issue Certificates of Inheritance for Foreign Easterners (*Golongan Timur Asing*) other than the Chinese.

In the Civil Code, concerning inheritance due to death, Articles 830 and 832 stipulate that inheritance occurs only as a result of death. According to the law, those entitled to become heirs are blood relatives—whether legitimate or born out of wedlock—and the surviving spouse, all in accordance with the provisions set forth below. In cases where there are no blood relatives or a surviving spouse, all property of the deceased shall become the property of the State, which is then obliged to settle all debts of the deceased insofar as the value of the estate is sufficient to cover them.

The legal force of the Certificate of Inheritance (*Surat Keterangan Hak Waris*) issued by the *Balai Harta Peninggalan* (BHP) grants full legal validity to the heirs. This certificate provides full legal legitimacy if its issuance fulfills two main requirements, namely administrative requirements and legal requirements.

a. Administrative Requirements

1. Application Letter
2. Power of Attorney from the Heirs
3. Death Certificate
4. Marriage Certificate
5. Birth Certificates of the Children
6. Certificate of Will from the Central Registry of Wills, Directorate General of General Legal Administration, Ministry of Law and Human Rights of the Republic of Indonesia
7. Identification Documents of the Parties/Heirs (National ID Card and Family Card)

(Note: All documents must be legalized by a notary.)

b. Legal Requirements

1. Substantive (Material) Legal Requirements
 - a) Existence of a Deceased Person (the Inheritor): Proven by a Death Certificate.
 - b) Existence of Legitimate Heirs: Based on blood relation, marriage, or other legally recognized relationships (such as adoption).
 - c) Existence of Inherited Property: Either movable or immovable assets with clearly defined ownership status.
 - d) Compliance with Applicable Inheritance Law: Referring to the *Civil Code (KUHPerdara)* for non-Muslims or the *Compilation of Islamic Law (KHI)* for Muslims.
2. Formal (Procedural) Legal Requirements
 - a) Issued by an Authorized Party.
 - b) For Indonesian citizens who are neither of Chinese nor Indian descent, the certificate may be issued by the Village Head (*Lurah*) or Subdistrict Head (*Camat*).
 - c) For Indonesian citizens of Chinese or Indian descent, it may be issued by a notary.
 - d) For Indonesian citizens who are Muslims, it may be issued by the Religious Court in the form of a Determination of Heirs.
 - e) Must be attended and signed by all heirs as proof of mutual agreement without dispute.
 - f) Must be witnessed by two adult witnesses who have no interest in the inheritance and are familiar

with the deceased's family.

g) Supported by official documents such as National ID Cards, Family Cards, Death Certificates, Marriage Books, and property ownership documents.[7]

Since the Certificate of Inheritance is issued by the *Balai Harta Peninggalan*, an official institution under the Ministry of Law and Human Rights, it holds strong legal authority and is more readily recognized as a valid document compared to certificates of inheritance issued by non-BHP entities, such as notaries or village officials.

A. Responsibilities of the Heritage Hall (Balai Harta Peninggalan) for the Issuance of the Certificate of Inheritance

The Heritage Hall (*Balai Harta Peninggalan*) is a technical implementing unit or work unit under the Ministry of Law and Human Rights of the Republic of Indonesia, which operates technically under and is responsible to the Directorate General of General Legal Administration through the Directorate of Civil Affairs.[8]

In relation to its legal obligations and role in managing and distributing the estate of a deceased person who has no known or legitimate heirs, the *Balai Harta Peninggalan* is entrusted with several fundamental duties concerning the rights, obligations, and legal procedures involved in handling such inheritance cases. These legal aspects include the following:

a. Court Authority

The District Court has the authority to appoint the *Balai Harta Peninggalan* (Heritage Hall) as the administrator of an estate when there are no legitimate or known heirs, based on a court decision. The court may designate the *Balai Harta Peninggalan* to manage and distribute the inheritance in accordance with applicable laws. This situation typically arises when a person dies intestate (without a will) and without any known or legitimate heirs.

b. Management of the Estate

The *Balai Harta Peninggalan* is responsible for inventorying and managing all assets left by the deceased, as well as safeguarding the estate, including settling the debts of the deceased. This responsibility must be carried out in good faith and with transparency to ensure that the assets are distributed fairly to the rightful beneficiaries or, in the absence of legitimate heirs, to the state. These duties include conducting a complete inventory of all assets and ensuring that all debts of the deceased are paid. The *Balai Harta Peninggalan* must also ensure that the estate is managed transparently and accountably.

c. Distribution of the Estate

After all debts have been settled, the *Balai Harta Peninggalan* is tasked with distributing the inheritance to the rightful parties based on the applicable inheritance laws (civil, customary, or religious). If no legitimate heirs exist, the estate shall be transferred to the state.

d. Accountability of the Administrator

The *Balai Harta Peninggalan* holds a legal obligation to act in good faith and manage the estate professionally. Any misconduct, abuse, or negligence in the management of the estate may result in legal sanctions.

e. Settlement of Inheritance Disputes

The *Balai Harta Peninggalan* also plays a role in resolving disputes among parties claiming to be heirs. If there is a conflict regarding who is entitled to the inheritance, the court may determine or decide the rightful heir, or even appoint another party to manage the estate.

Based on the inheritance system, the transfer of an estate may be determined by the testator to take effect upon their death. According to the Civil Code, specifically Articles 830 and 832 concerning inheritance due to death, inheritance occurs only upon death. By law, those entitled to become heirs are blood

relatives—whether legitimate or born out of wedlock—and the surviving spouse, all in accordance with the provisions stipulated therein.

In cases where there are no blood relatives or a surviving spouse, all the property of the deceased shall become the property of the State, which is then responsible for settling all debts of the deceased insofar as the value of the estate is sufficient to cover them.

The technical procedures carried out by the Heritage Hall (*Balai Harta Peninggalan*) in managing unclaimed inheritance are as follows:

1. After the Heritage Hall receives an official report from the local Village Head (*Lurah*) or Subdistrict Head (*Camat*) regarding a person who has passed away without heirs, a court decision, or a statement of inheritance renunciation by the heirs, the Heritage Hall shall immediately notify the public by publishing an announcement in two (2) local and national newspapers as well as in the State Gazette of the Republic of Indonesia.
2. After a period of fourteen (14) days from the date of the public announcement, if no objections are raised by the public or any third party, the Heritage Hall (*Balai Harta Peninggalan*) shall promptly notify the relevant government agencies associated with the person or the unclaimed property, such as the District Court, Land Office, Prosecutor's Office, Audit Board of Indonesia (*Badan Pemeriksa Keuangan*), and other related institutions.
3. Conduct an inventory of the assets belonging to the absentee person and enter into lease agreements with the applicant for the court determination or other interested parties.
4. Represent and defend the rights of the absentee person both within and outside the court
5. If it is in the interest of the estate, the Heritage Hall (*Balai Harta Peninggalan*) may sell the assets of the absentee person after obtaining prior authorization from the local District Court and the Minister of Law and Human Rights of the Republic of Indonesia.
6. If, within a period of thirty (30) years, the person declared absent does not reappear, the proceeds from the sale of the assets shall be transferred or deposited into the state treasury, after obtaining prior approval from the Audit Board of Indonesia (*Badan Pemeriksa Keuangan*).[9]

The *Balai Harta Peninggalan* (Heritage Hall) bears a significant responsibility in managing the administrative process related to the *Certificate of Inheritance* (*Surat Keterangan Hak Waris*), which serves to determine who is legally entitled to inherit the assets of a deceased person.

As an authorized institution, the *Balai Harta Peninggalan* (Heritage Hall) must exercise caution in determining inheritance rights to avoid errors that may harm other parties. If there is any mistake or negligence in issuing the *Certificate of Inheritance*—such as recognizing an ineligible person as an heir—the *Balai Harta Peninggalan* may be held legally responsible, which could result in administrative sanctions or even legal action by the aggrieved party.

The process of administering the inheritance of an absentee is entrusted to the Heritage Hall (*Balai Harta Peninggalan*) based on a court decision. The BHP is responsible for carrying out various stages of management, ranging from temporary measures to permanent inheritance, which include the inventory of assets, public announcements, and the settlement of obligations.[10]

CONCLUSION AND RECOMMENDATION

In conclusion, the *Certificate of Inheritance* (*Surat Keterangan Hak Waris*) issued by the *Balai Harta Peninggalan* (Heritage Hall) of Makassar City possesses legitimate legal force as long as it fulfills the administrative and legal requirements stipulated by the prevailing laws and regulations. This certificate serves as an official document that recognizes the rightful parties entitled to the inheritance of a deceased person. However, the *Balai Harta Peninggalan* also bears a significant responsibility in managing the administrative processes related to the issuance of such certificates.

The recommendations include several key points. First, it is suggested that the *Balai Harta Peninggalan* (Heritage Hall) clarify the legal basis and procedures for issuing the *Certificate of Inheritance* to strengthen

the legal validity of the document in the eyes of the law. A more transparent and standardized procedure should be adopted, and it is essential to ensure that all required supporting documents are complete and legally valid before issuance.

Second, there is a need to improve the accountability mechanisms of the *Balai Harta Peninggalan*, particularly regarding supervision and responsibility in cases of errors or negligence during the issuance process. The *Certificate of Inheritance* aims to ensure that all information contained within the document is valid and provides legal certainty for all parties involved.

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