

Legal Standing of Heirs of Different Religions to Customary Lands in Bali



I Ketut Kasta Arya Wijaya¹, I Made Suwitra², Ni Made Jaya Senastri³, T.Nazaruddin⁴, Sulaiman⁵

^{1,2,3}Lecturer at Faculty of Law, Warmadewa University

^{4,5}Lecturer of Faculty of Law Malikusaleh

ABSTRACT: This study examines the legal position for heirs who convert to customary lands in the family of the heir in terms of Balinese customary law. Heirs are those who, because of their position to the testator, are entitled to occupy the place of heir to the inheritance. In principle, all heirs have the right to inherit, except because of conduct or legal acts that are detrimental to the heir so that the position of heirs can be canceled under law. This study uses empirical legal research by using existing data in the field by interviewing competent people. Then supported by secondary data in the form of primary legal materials and legal materials. From the research that has been done, it can be found that the status of customary land, *both temple profit land, village father's land and customary land in the heirs' family clan* which is an inheritance or *property from* ancestors, who are entitled to inherit it are heirs who still adhere to Hindu beliefs only. Because the heirs who still adhere to Hinduism who can carry out their obligations to worship the ancestors who stand in the holy place. Inheritance in Balinese customary law does not solely contain the rights of heirs to inheritance, but more than that the most important thing is the obligation of heirs to heirs. This obligation of the heir is a consequence of the rights he receives. Where an heir in Balinese customary inheritance law has certain obligations, namely: 1) Maintaining the heir in a state of incapacity; 2) Burying the body of the heir or holding a *funeral service* for the heir to bury his spirit in *Sanggah/Mrajan* (family place of worship); 3) Worship the spirits of ancestors who reside in *Sanggah/Mrajan*; 4) Carry out obligations (*fatherhood*) towards Banjars and Customary Villages.

KEYWORDS: Heirs, Customary Land, Balinese Customary Law

INTRODUCTION

For customary law communities, especially in Bali, land has its own meaning compared to other objects, because land for legal communities serves as a place of residence, place of life and survival. With such a function, the bond between the law community and the land is very strong. The strong bond of the legal community with the land, gives rise to the logical consequences of the law society in its power and authority to regulate the land with all its contents in its territory. Speaking of land rights, in Bali two types of land rights are known, namely individual rights to land and the rights of customary law communities (villages, temples). The types of individual land rights are as mentioned in Article 16 paragraph (1) of the UUPA (Basic Agrarian Law), namely property rights, business use rights, building use rights, use rights, rental rights, and others. Individual lands are fully subject to national land law while lands that constitute indigenous peoples' rights in addition to being subject to national law are still bound by customary provisions, such as those contained through *awig-awig, pararem, and dresta*. [1]

Druwe merajan land is evidence *land or profit land* owned by a large family or group of certain lineages. As revealed by I Made Suwitra, stated that the current temple profit land not only includes temples owned by traditional villages, but also includes temples belonging to groups of certain lineages such as *dadia temple (Paibon)*, *Khayangan Jagat temple* including *Sad Khayangan temple* and *Dang Kahyangan temple*, and royal shrines that once existed in Bali.[2]

Talking about the issue of different religions or religious conversions, according to Aryadharmas argues that conversion or conversion of Hinduism to Christianity has actually occurred in several phases, carried out by *Zending Missions* who come to Bali as tourists or researchers who study Balinese culture. Balinese society in general and especially in Dalung village has an open and tolerant nature towards migrants. This also opens up opportunities for the growing number of non-Hindu immigrants to Dalung village. Christians both adhering to Catholicism and Protestant Christianity in Dalung village, in addition to being immigrants, most of them are also local residents of Dalung village who have converted from Hinduism to Catholicism and to Protestant Christianity [3]

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In Balinese customary law, conversion will affect inheritance for people who come from the inheritance of their ancestors. Thus, the legal position of the heirs who convert will be disputed by the heirs in their clan. So from the description above, the following problems will be studied: what is the legal position of heirs who convert within the Balinese Indigenous community to ancestral inheritance lands in the form of customary lands?

RESEARCH METHODS

In this research in an effort to review and find solutions to the problems raised, the type of research used is *empirical research*. In this study, researchers used types of statutory approaches, cases, concepts and sociological approaches. [4] The technique of collecting legal materials is intended to obtain legal materials in research. Primary data is carried out through an interview process or interview. An interview is a face-to-face role situation when a person asks questions designed to obtain answers relevant to a research problem to an informant or respondent.[5] In this study, data were obtained from parties related to the problem studied.

LITERATURE REVIEW

HEIRS

In Balinese customary law based on the *purusa* family system, the persons who can be counted as heirs in the main line of primacy and the principal line of primacy and successor principal line are the men in the family concerned, as long as there is no cut off right as heirs. The group of people included in the first line of primacy as heirs are the descendants of heirs downward, namely biological sons or daughters who are upgraded to the status of successors (*sentana rajeg*) and adopted children (*sentana peperasan*).[1]

The definition of heirs according to Hilman Hadikusuma is, "People who have the right to inherit inheritance property". This means that the person has the right to continue control and ownership of the estate or is entitled to have a predetermined share in the division of the estate between the heirs. Those heirs can be children, grandchildren, fathers, mothers, uncles, grandparents. Basically, all heirs have the right to inherit unless the behavior or legal acts committed by the heirs are very detrimental to the heir.[6]

DIFFERENT RELIGIONS

According to Max Henrich said that religious conversion is an act in which a person or group of people enter or convert to a belief system that is contrary to previous beliefs. So religious conversion is said to be a kind of spiritual growth or development that contains a significant change in direction in attitude towards religious teachings or actions.[7]

Converting has a lot to do with the issue of the environment and the influence of the environment in which it is located. In addition, religious conversion is intended according to several understandings with the following characteristics: 1) There is a change in the direction of one's views and beliefs towards the religion and beliefs they follow; 2) Changes that occur are influenced by psychiatric conditions so that changes can occur in process or suddenly; 3) The change not only applies to the conversion of belief from one religion to another, but also includes a change in views of the religion that occurs. 4) In addition to psychological factors and environmental conditions, the change is also caused by guidance factors from the Almighty.

So different religions in one family are conceptualized as different beliefs that are mostly influenced by their environment and also involve psychological factors.

RESULTS AND DISCUSSION

STATUS OF HEIRS OF DIFFERENT RELIGIONS TO CUSTOMARY LAND IN BALI

The important thing in the issue of inheritance is the existence of three elements, each of which is an important element, namely; There is an heir is a legacy at the time of his death leaving an inheritance in the form of both property and rights and obligations. Heirs are one or several persons who are entitled to receive inheritance of property or rights and obligations from the testator. The division of inheritance is usually based on blood relations, marriage, brotherhood, to kinship. [8]

Definition of Inheritance Property is property which in Hindu law is called *dhana (m)*, while in Customary Law in Bali it is known as *Druwe tatamiyan*. The word *Druwe* in Old Javanese and Balinese means property rights, while *tatamiyan* means heirloom, inheritance or relic. Thus, *druwe tatamiyan* is a relic of property rights from a deceased person to his surviving relatives, or in general terms commonly referred to as inheritance in inheritance law.[9]

With regard to this estate, if one of the heirs wants his share of the inheritance while the other heirs do not agree to divide the estate, then the property is still joint property. *The middle Druwe* should only be divided by those who are directly entitled, and even then it should be at the willingness of the parties. If either party refuses or refuses the division, the inheritance of the *middle druwe* may not be divided, even if the division of the inheritance is limited to objects that are not religiously magical. [10]

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Meanwhile, the inheritance property which because of its nature that should not be divided is because the inheritance in the form of *druwe mrajan* land has been donated or agreed between the extended family for religious purposes including the care of *the mrajan* (renovation of *the mrajan*) and religious ceremonies both carried out every day and on certain days including *Piodalan in the king*. In addition, due to the magical religious nature mentioned above, it cannot be divided, such as heirlooms in the form of kris, spears, *bandrangs*, and other religious instruments, all of which are held or entrusted to one or several people and their use is open to the benefit of all members of the extended family. [11]Based on the description above, the *druwe Mrajan* land that the author is researching is a heritage land or *Druwe tetamian* which is inherited from generation to generation. As joint inheritance in customary law, inheritance is a system of collective inheritance, where heirs receive inheritance property as a unit that is not divided into control or ownership and each heir only has the right to use or get the proceeds of the property. Inheritance in Balinese customary law does not solely contain the rights of heirs to inheritance, but more than that the most important thing is the obligation of heirs to heirs. This obligation of the heir is a consequence of the rights he receives. An heir has certain obligations, namely; 1) Maintain the heir in a state of incapacity; 2) Burying the body of the heir or holding a *funeral service* for the heir to bury his spirit in *Sanggah / Mrajan* (family place of worship); 3) Worship the spirits of ancestors who reside in *Sanggah / Mrajan*; 4) Carry out obligations (*fatherhood*) towards Banjar and Village. So negligence of the above obligations can be used as a reason for the termination of one's rights as heirs. Or it can be said that the heirs are deprived of the right to receive the inheritance for several reasons, which are as follows: a) Sons marry *nyeburin*; b) Sons do not perform *the Dharmaning* of children (e.g.: disobedience to ancestors, *dhurhaka* against parents); c) *Sentana rajeg* who marry out. Basically, in Balinese customary law regarding inheritance, it does not only contain rights but there are also obligations that must be fulfilled in an effort to get inheritance and if one of the obligations is ignored it can cause a cut off of the right to receive inheritance. Inheritance and Status of heirs of different religions in Balinese customary inheritance law, is related to inheritance in Bali will refer to considerations of customary law and Hinduism that apply to the supporting community.

CONCLUSION

That inheritance according to Balinese customary law is not synonymous with dividing the inheritance of parents and ancestors (heirs) by heirs, but contains the meaning of preservation, management and transmission of *swadharma* (responsibility) and *swadikara* (rights) to the inheritance of heirs in various forms and natures. With regard to people who have converted or converted or people who are no longer Hindus are referred to as *Ninggal Kedaton Penuh*, meaning that people who *have died full kedaton* are not entitled to inheritance from the heir at all, so they cannot be called heirs, can only be referred to as heirs (descendants).

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