



Revocation of Deed of Gift Issued by Land a PPAT Due Heirs Disapproval (A Study on the Verdict of Medan High Religious Court No.112/PDT.G/2019/PTA.MDN)

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Abstract - A gift is something which is given for free: it is intended to be the solution in the distributing inheritance so that there will be no conflict in practicing it. In reality, however, a gift is not the best solution because there are many disputes about the revocation of deed of gifts as what happens in the Verdict of the Medan PTA (High Religious Court) No.112/Pdt.G/2019/PTA.Mdn because a gift is a joint property and given by the parents to one of their children without any approval from the others heirs. The result is that it causes a conflict among the heirs since they think that it is not fair. This research uses juridical normative research method with descriptive analytical approach. The data consists of secondary data, obtained from primary, secondary, and tertiary legal materials. They are gathered by conducting library research and interviews. The gathered data are analyzed by using qualitative analytical method. The result of the research suggests that the revocation of the deed of gift happens because there is a regulation which has been violated-the gift is more than 1/3 of the property. In making the deed of gift, a PPAT is a responsible for it. He is required to understand the regulation the regulations on distrtribution of gift, let alone if the heirs and the testators are moslems. He has to know how to distribute a gift in the KHI (Complication of the Islamic Laws), and he has to apply the Principle of Prudence in making Deeds of Gift in order to avoid conflicts. The conclusion is that the Deed of Gift No.184/Binjai Kota/2004 issued by PPAT in the Verdict of the Medan PTA (High Religious Court) No.112/Pdt.G/2019/PTA.Mdn does not have any legal force because the deed of gift has violated the Islamic Sharia specified in Article 210 of KHI in which is more than 1/3 of the testator's property and the distribution of inheritance does not have any approval from the heirs. The consequence is that the receiver loses his right on the gift. The panel of the judges' decision causes the status of the land and the building becomes the joint property again. The panel of judges' decision in this Verdict has applied the Principle of Prudence for the whole party since the judges' do not side with any parties in the litigation, and they recognize the equality of rights and obligations of both parties.

Keywords: Revocation, Deed of Gift, PPAT, Approval

I. INTRODUCTION

Hibah is a contract intended for the transfer of someone's property to another person while still alive without any compensation. (Muthiah A. , 2021) According to Prof. Rosnidar Sembiring, giving a hibah is a sign of affection towards others, which is a commendable act and earns reward if the items or wealth given as hibah are halal. (Rosnidar Sembiring, 2020) Gifts in Indonesia are regulated under several legal systems, namely Civil Law, Customary Law, and Islamic Law. Gifts in Indonesia are regulated under several legal systems, namely Civil Law, Customary Law, and Islamic Law. (Syuhada, 2019) For those subject to Western Civil Law, the provisions in the Civil Code, hereinafter referred to as KUHPer, apply. (Simanjuntak P. , Hukum Perdata Indonesia, 2015) In the Civil Code, a gift is not included in the inheritance law material regulated in Book II of the Civil Code, but rather a gift is included in the obligation material regulated in Book III Chapter X from Article 1666 to Article 1693 of the Civil Code. (Meliala, 2015) According to customary law, what is meant by a gift is the wealth of a person that is distributed among their children while they are still alive. Gifts often

occur when children start to stand on their own or when their children begin to marry and form their own families. (Priyadi, 2023) As for those who are Muslim, among some of the Indonesian population, they are subject to Islamic Law. (Simanjuntak P. , loc.cit) Matters of hibah in Islamic Law are regulated in the Qur'an, the Sunnah of the Prophet, the consensus of scholars, and are also regulated in Articles 210-214 of the Compilation of Islamic Law, hereinafter referred to as KHI. This research focuses on hibah according to Islamic law (Menurut Pasal 1 ayat (1) UU No.7 Tahun 1989 Peradilan Agama adalah peradilan bagi orang-orang yang beragama Islam. Sedang menurut Pasal 2 UU No.3 Tahun 2006, Pengadilan Agama merupakan salah satu pelaku kekuasaan kehakiman bagi rakyat pencari keadilan yang) because the decision to be examined originates from a Religious Court decision that has been appealed to the High Religious Court.

There are three conditions that must be met in the case of making a gift according to Islamic law, namely: (Simanjuntak A. A., 2015) 1) Ijab (the statement about the gift from the giver), Qabul (the statement from the recipient of the gift), and Qabdlah (the actual or symbolic transfer of ownership). The definition of a gift is regulated in Article 171 letter G of the KHI, which states: A gift is the voluntary and gratuitous transfer of an object from one person to another who is still alive for ownership. (Pasal 171 huruf g Kompilasi Hukum Islam) As stated in KHI Article 211 that A gift from a parent to their child can be counted as an inheritance. (Pasal 211 Kompilasi Hukum Islam) The meaning of may in that Article does not imply an imperative (must), but rather is one of the alternatives that can be taken to resolve inheritance disputes. According to Imam Gunawan, the word can means that when a gift is given and other children want to dispute the division of inheritance, the gift is counted as part of the inheritance by calculating the gift given with the inheritance owned by the parents or the heir. According to Imam Gunawan, the term can means that when a gift is given and other children want to dispute the division of inheritance, the gift is counted as part of the inheritance by calculating the gift given with the inheritance owned by the parents or the heir. Thus, all of the children will receive their rights fairly. (Gunawan, 2023)

Someone who wishes to donate their inheritance during their lifetime according to Islamic law must meet the following conditions: (Pasal 210 Kompilasi Hukum Islam) 1) must be at least 21 years old, 2) must be of sound mind, 3) must not be under duress, 4) must donate no more than 1/3 of their property, 5) in the presence of two witnesses, and 6) the donated property must be the donor's rightful property.

Based on Article 212 of the KHI which states: "Gifts cannot be retracted except for gifts from parents to their children," as narrated in the Hadith by Al-Baihaqi: "A giver of a gift is not allowed to retract what has been given, except for (gifts) from parents to their children." (Pasal 212 Kompilasi Hukum Islam.) Scholars agree that it is recommended for parents to equalize the distribution of gifts among their children and it is discouraged to favor one child over the others. (Rosidin, Pendidikan Agama Islam untuk Perguruan Tinggi: Ibadah & Muamalah, 2017) The revocation or annulment of a gift is carried out by expressing the intention of the person who gave the gift, followed by the reclamation of the items that have been gifted. The cancellation of this grant can be carried out by filing a lawsuit in court.

Gift-giving in Islamic law can be done both in writing and verbally; Islamic law also stipulates that the transfer of immovable property can be done verbally without using written documents. However, if subsequently, sufficient evidence of the transfer of ownership occurs, then the gift can be stated in writing. According to Asriadi, a verbal gift for immovable property should ideally be made in the presence of two qualified witnesses, but for legal certainty, it should be done in writing. According to Asriadi, verbal grants for immovable objects should ideally be made in the presence of two qualified witnesses, but for legal certainty, they should be made in writing. (M.L, Hibah Secara Lisan dalam Hukum Perdata dan Hukum Islam, 2020)

Land is classified as immovable property that is often made the object of a gift. Referring to Article 1682 of the Indonesian Civil Code, No donation, except as provided in Article 1687 (Pasal 1687, Hadiah dari tangan ke tangan berupa barang bergerak yang berwujud atau surat piutang yang akan dibayar atas tunduk, tidak memerlukan akta notaris dan adalah sah bila hadiah demikian diserahkan begitu saja kepada orang yang diberi hibah sendiri), can be made

without a notarial deed, the original (minute) of which must be kept by the notary, and if this is not done, the donation is invalid. (Pasal 1682 Kitab Undang-Undang Hukum Perdata) From Articles 1682 and 1687, we can see that for the donation of immovable property, a formality in the form of a notarial deed is required, but for the donation of movable property or promissory notes (aan tonder), no formality is needed and it can be legally done by simply handing over the item to the recipient or to a third party who receives the donation on their behalf.

This is also in accordance with Government Regulation Number 24 of 1997 concerning Land Registration, hereinafter referred to as PP No.24/1997 concerning Land Registration," so the donation of land according to Article 37 of PP No.24/1997 concerning Land Registration must be made in the presence of the Land Deed Official, hereinafter referred to as PPAT, just like the sale and purchase of land. The PPAT is generally also held by Notaries. In the case of land grants, the grant deed can actually be made with a Notary deed and a PPAT deed. The deed of gift is made with a Notary deed if the formal requirements according to Government Regulation No. 24/1997 on Land Registration have not been met. If the formal requirements have been met, then the deed of gift made by the Notary can be converted into a PPAT deed.

To obtain stronger evidentiary power, the transfer or assignment of land rights must be registered at the District Land Office to be recorded in the land book. (Isabella Marchelina, 2022) According to the principles of civil law, when a cancellation occurs, all conditions must be restored to their original state before the legal act took place. If such a cancellation occurs and the Land and Building Acquisition Tax (BPHTB) and the cost of verifying land legality have already been paid, then this is a risk that must be borne by the applicants themselves. (Adjie, 2015)

A grant serves as a solution in the distribution of inheritance to avoid conflicts that arise in the division of inheritance due to human negligence. But in practice, grants are not the best solution to resolve land inheritance issues because problems related to grants still occur, causing the purpose of the grants themselves to not function as intended.

As happened in the decision of the Medan Religious High Court Number 112/Pdt.G/2019/PTA.Mdn upholding the decision of the Binjai Religious Court Number 399/Pdt.G/2018/PA-Bji regarding the cancellation of the grant deed made by PPAT. Where the inheritance in the form of land and buildings which is the inheritance of OZL and STM was granted by STM to one of his children named LL when OZL had passed away. STM granted it in front of Notary SS without the knowledge and permission of the other heirs so that it was continued to the Binjai City Land Agency to reverse the name.

In the Decision, the Panel of Judges decided the following verdicts:

In Exception: Rejecting the Defendant's Exception

In the main case:

1. Granting the Plaintiffs' claim
2. Declare that the Grant Deed No. 184/Binjai Kota/2004, dated May 28, 2004 on a piece of land with a Certificate of Title No. 370 located in Setia Village issued by the Acting Head of the Binjai City Land Office in 1994 dated November 28, 1994, has no legal force.
3. Charged Defendant I, Defendant II, Defendant III, Defendant IV and the Co-Defendants to pay court costs in the amount of 6,106,000.00 (six million one hundred and six thousand rupiah).

In 2019, Defendants I, II and III hereinafter referred to as "the Appellants" filed an appeal to the Medan High Court of Religion and requested that the Panel of Judges overturn the Decision of the Bijai Religious Court Number 399/Pdt.G/2018/PA.Bji. However, the Panel of Judges decided:

1. Accept the appeal of the Appellants
2. Affirm the Decision of the Binjai Religious Court Number 399/Pdt.G/2018/PA.Bji dated April 8, 2019 AD coinciding with the 2nd day of Sha'ban 1440 Hijriyah;
3. Punish the Appellants to pay court costs at the appeal level in the amount of Rp 150,000.00 (one hundred and fifty thousand rupiah);

In addition to the Decision of the Binjai Religious Court Number 399/Pdt.G/2018/PA.Bji, there are also several decisions regarding the annulment of grant deeds from parents to their children such as the Decision of the West Jakarta Religious Court Number 946/Pdt.G/2024/PA.JB because the grant was canceled because the grant was given without the consent of the husband and other children. Grant cancellation also occurred in Medan Religious Court Decision Number 1229/Pdt.G/2018/PA.Mdn where there was a grant cancellation due to grants exceeding 1/3. And Stabat Religious Court Decision Number 207/Pdt.G/2013/PA.Stb where there was a grant cancellation due to the absence of other heirs' consent.

In this case, the cancellation of grant deeds from parents to their children still occurs because it violates the provisions of grants that have been regulated in KHI and creates injustice in the distribution of inheritance. Although the intention of the grant is actually a good intention, the discrepancy will cause disputes between heirs. Therefore, it is important to understand the limits of grants.

This study aims to analyze the decision of the Religious Court in handling the cancellation of the grant deed due to the absence of heirs' consent and exceeding the maximum limit in granting and examining how Islamic law provides protection for the rights of heirs who do not receive inheritance because all inherited property has been granted to one child only.

II. METHOD

1. Nature and Type of Research

This research employs a descriptive approach, aimed at explaining existing regulations currently in effect as positive law. Additionally, it is a normative legal research, focusing on legal rules or principles that conceptualize norms derived from legislation, court decisions, and legal doctrines.

Normative legal research in this study examines disputes concerning the annulment of grant deeds due to the absence of heirs' consent, by analyzing court decisions through the lens of Islamic law. One of the objectives is to investigate the legal principles applied in cases of grant deed cancellations stemming from the lack of consent from other heirs.

2. Research Approach

The approaches used in this research are the statutory approach (statute approach) and the case approach.

3. Data Source

The data sources in this research are secondary data, obtained through literature studies. The secondary data is divided into three categories: primary, secondary, and tertiary legal materials, as follows:

- a. Primary Legal Materials: These include the 1945 Constitution of the Republic of Indonesia, the Compilation of Islamic Law (KHI), the Civil Code (KUH Perdata), Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 on Notary Offices, Government Regulation Number 24 of 1997 on Land Registration, the Medan Religious High Court Decision Number 112/Pdt.G/2019/PTA.Mdn, and the Binjai Religious Court Decision Number 399/Pdt.G/2018/PA.Bji.
- b. Secondary Legal Materials: These consist of papers, journals, theses, dissertations, books, and online articles related to the research topic.
- c. Tertiary Legal Materials: These include legal dictionaries, the Great Dictionary of the Indonesian Language (KBBI), and relevant websites.

4. Data Collection Techniques and Tools

a. Literature Study

Data collection is conducted by gathering legal materials through reading, observing, listening, and searching for information via internet resources.

b. Interviews

Interviews serve as a method to collect primary research data. The interviews will involve the High Judge of the Medan Religious High Court and Notaries/PPAT in Medan.

5. Data Analysis

The data analysis in this research employs a qualitative approach. This method involves presenting, explaining, and critically describing legal phenomena or social interactions in society to uncover and interpret their real-world significance.

III. RESULT AND DISCUSSION

1. Comparison Of Regulations on Grants in the Creation of Authentic Deeds According to Applicable Laws

a. Regulations on Grants in the Civil Code

Regulations regarding grants have been stipulated in Book Three on Obligations in Chapter Ten on Grants, which states that the grant process is conducted through an open system. (Rasyid, 2023) A donation is an agreement whereby a donor gratuitously transfers an item, without the possibility of retracting it, for the benefit of someone who receives the transfer of the item. The law only recognizes donations between living persons. (Pasal 1666 Kitab Undang-Undang Hukum Perdata) A gift can only be made for items that already exist at the time the gift is given; if the gift includes items that do not yet exist, then the gift is void. The gift can only be made for items that already exist at the time the gift is given; if the gift includes items that do not yet exist, the gift is void. (Pasal 1667 Kitab Undang-Undang Hukum Perdata).

From the above understanding, it can be concluded that the elements of a grant are: (Asdina, 2021) 1) classified as a unilateral agreement imposed on the donor, 2) irrevocable, 3) intended to benefit the recipient of the grant, 4) executed while the grantor is still alive, 5) the object of the grant is the grantor's property, and 6) the subject of the grant is living persons, including unborn children. (Pasal 2 ayat (2) Kitab Undang-Undang Hukum Perdata: "Anak yang ada dalam kandungan perempuan, dianggap sebagai telah dilahirkan, bilamana juga kepentingan si anak menghendaknya. Mati sewaktu dilahirkannya, dianggaplah ia tak pernah telah ada)

In the Civil Code, there are provisions regarding donation agreements, where both the donor and the recipient of the donation can be subject to rights and obligations arising from the donation event they receive, namely:

1) Right

- a) The grantor may promise that they will use a certain amount of money from the donated items. If he dies without having used that amount of money, then what was donated remains entirely with the recipient. (Pasal 1671 Kitab Undang-Undang Hukum Perdata)
- b) The grantor can stipulate that he retains the right to reclaim the items he has given, whether in the case of the grantor himself or in the case of the recipient and their descendants dying before the grantor; but this can only be stipulated for the benefit of the grantor himself. (Pasal 1672 Kitab Undang-Undang Hukum Perdata)
- c) The donor cannot revoke the gift. However, the donor can retract their gift in the cases specified in Article 1688 of the Civil Code. The consequence of the right to reclaim the donated items is that the transfer of those items to another person, if it has occurred, must be canceled. The return of the items must be free from all burdens and mortgages that may have been placed on the items while they were in the possession of the person who received the gift. (Pasal 1673 Kitab Undang-Undang Hukum Perdata)

2) Obligations

- a) At the moment the grantor hands over the property or item being gifted to the recipient, from that point on, there are no obligations binding the grantor.

- b) If the grant is given with conditions, then the recipient of the grant is obliged to fulfill those conditions. However, the conditions must be stated in the deed of gift.
- c) The grant recipient is obligated to provide alimony to the grantor if the grantor falls into poverty.
- d) The recipient of the grant is obliged to return the granted object if they violate the rules set forth in Article 1688 of the Indonesian Civil Code.
- e) The grantor is not obliged to guarantee that the person is free from court lawsuits if the donated item subsequently becomes the property of another person based on a court decision. (Pasal 1674 Kitab Undang-Undang Hukum Perdata.)

The ability to give and receive grants:

1. Everyone, except those declared by law to be incapable of it. (Pasal 1676 Kitab Undang-Undang Hukum Perdata)
2. Minors, except in cases that have been specified. (Pasal 1677 Kitab Undang-Undang Hukum Perdata) Gifts to minors who are still under the authority of their parents must be accepted by the person exercising that parental authority. Gifts to minors who are still under guardianship or to those who are under curatorship must be accepted by the guardian or curator who has been authorized by the District Court. (Pasal 1685 Kitab Undang-Undang Hukum Perdata)
3. Gifts between husband and wife whose marriage is still ongoing. But this provision does not apply to gifts or donations in the form of tangible movable property, the value of which is not high compared to the wealth of the donor. (Pasal 1678 Kitab Undang-Undang Hukum Perdata)
4. The recipient of the grant must be in the world or, considering the rules in Article 2, must be in the womb of their mother at the time the grant is made in order to be deemed valid to enjoy the granted item. (Pasal 1679 Kitab Undang-Undang Hukum Perdata)
5. Grants to public institutions or religious institutions have no legal effect, unless the President or the appointed officials have authorized the administrators of those institutions to accept them. (Pasal 1680 Kitab Undang-Undang Hukum Perdata)
6. A gift given to a woman who is still married cannot be accepted. (Pasal 1684 Kitab Undang-Undang Hukum Perdata.)

A donation is invalid if not carried out by a Notary, as stated in Article 1682: No donation, except as provided in Article 1687, can be made without a notarial deed, the original (minute) of which must be kept by the notary, and if this is not done, the donation is invalid. (Pasal 1682 Kitab Undang-Undang Hukum Perdata) Therefore, in a donation, no donation can bind the donor before the donation is accepted with explicit words by the person to whom the donation is given or by their representative who has been authorized by them to accept the donation that has been or will be donated. If the acceptance is not carried out with a deed of gift, then the acceptance can be carried out with an authentic deed. Then the original document must be kept by the Notary at the time the donation occurs while the donor is still alive. In such a case, for the donor, the gift is only valid from the moment the acceptance of the gift is officially communicated to them. (Pasal 1683 Kitab Undang-Undang Hukum Perdata)

Ownership of donated items, even if received lawfully, does not transfer to the person receiving the donation until it is delivered in the manner specified in Articles 612, 613, and 616 of the Indonesian Civil Code. (Pasal 1686 Kitab Undang-Undang Hukum Perdata) However, for the transfer of land rights, the deed of gift must be made with a PPAT deed as stipulated in Article 37 paragraph (1) of Government Regulation No. 24/1997 concerning Land Registration: The transfer of land rights and ownership of apartment units through sale, exchange, gift, contribution to a company, and other legal acts of transfer of rights, except for the transfer of rights through auction, can only be registered if proven by a deed made by an authorized PPAT in accordance with the applicable laws and regulations. (Pasal 37 ayat (1) Peraturan Pemerintah No.24 Tahun 1997 tentang Pendaftaran Tanah.)

The cancellation of a deed of gift is regulated in Article 1688 of the Civil Code, where a gift cannot be revoked and therefore cannot be canceled, except in the following cases: (Pasal 1688 Kitab Undang-Undang Hukum Perdata)

1. If the conditions of the grant are not fulfilled by the recipient;
2. If the person who is given the grant is guilty of committing or participating in an attempt to murder or another crime against the grantor;
3. If the donor falls into poverty and the recipient refuses to provide for them.

a. Regulation of Gifts in Islamic Law

Gift in Islamic law is regulated in various legal sources, namely the verses of the Qur'an, the Hadith of the Prophet, and the consensus of scholars regarding the law of gift. Actually, it is difficult to directly find the legal basis for hibah in the Qur'an. Because the use of the word hibah in the Qur'an is in the context of God's granting of gifts to His beloved ones, namely the Prophets and Messengers, and explaining the nature of God as the Most Generous Giver. However, it can also be used as a general guideline and recommendation for someone to give a portion of their fortune to others.

The word hibah, which has been adopted into the Indonesian language, actually comes from Arabic, meaning to give or a gift (athiyah). (Ajib, 2019) Meanwhile, in terms of terminology, hibah means a contract that transfers ownership without any compensation while still alive and is done voluntarily. In Islamic law, hibah refers to a contract where the main issue is the giving of someone's property to another person while they are still alive, without any compensation.

From several definitions of a grant that have been described, it can be concluded that a grant has the following characteristics: 1) a gift from one party to another, 2) not expecting any reward from the recipient of the grant, 3) must be carried out while the grantor is still alive, and 4) it is a unilateral agreement. To carry out a grant, there are pillars and conditions that must be met. The pillars of a gift (hibah) are: (Sudiarti, 2018) Wahib (the giver), Mauhub lah (the recipient), Mauhub (the gifted property), and Shighat (the declaration and acceptance).

In the pillars of hibah, there are conditions, namely:

1. Conditions of the Donor (Grantor)
 - a. The owner of the donated property.
 - b. Able to be held accountable for their actions.
 - c. Not under the guardianship of another person.
 - d. There is no pressure from others or being forced.
 - e. Making a donation based on their own choice, not because of someone else's choice.
2. Mauhub Conditions (Grant Recipient)

The person acting as the grant recipient must truly exist. Therefore, a baby still in the womb is not allowed to receive a grant. (Muthiah 7. G., 2021)
3. Conditions of Mauhub (Gifted Property)
 - a. The donated items were already present when the donation was carried out.
 - b. The donated item is an item that is lawfully owned.
 - c. The donated property is not bound by any agreement.
4. Conditions of Shighat (Ijab Kabul)

Ijab Kabul must be based on the free agreement of the parties, without any elements of coercion, error, or fraud. The Ijab Kabul statement can be made verbally or in writing.

Gifts in Islamic law have many benefits in daily life, such as fostering relationships, helping those in need, setting aside part of one's wealth for charitable deeds, and gifts can also be used as one way to plan the distribution of inheritance. Regulations regarding hibah have been outlined in the KHI, specifically in Chapter VI on Hibah, Articles 210-214.

The definition of a gift is regulated in Article 171 letter G of the KHI, which states: A gift is the voluntary and gratuitous transfer of an object from one living person to another for ownership. (Pasal 171 huruf g Kompilasi Hukum Islam.) The gift consists of property (goods or money) given before the giver passes away. If given after death, the gift falls under a will or inheritance (if the recipient is an heir). (Asep Dadang Hidayat, 2022)

Someone who wishes to donate their estate during their lifetime in Islamic law must meet the following conditions: (Pasal 210 Kompilasi Hukum Islam.) 1) must be at least 21 years old,

2) must be of sound mind, 3) must not be under duress, 4) must donate no more than 1/3 of their assets, 5) in the presence of two witnesses, and 6) the donated assets must be the donor's rightful property.

Article 211 of the KHI states that "Gifts given by parents to their children can be counted as inheritance. (Pasal 211 Kompilasi Hukum Islam) The meaning of can in this context does not imply an imperative but rather one of the ways that can be taken to resolve inheritance disputes. As long as none of the heirs question the gifts that have already been received by some of the heirs, the inheritance that has not been gifted can be distributed to all the heirs according to their shares.

However, if there are heirs who question the gifts that have been given to some other heirs, then the gifts can be calculated as part of the inheritance by calculating the gifts already received against the share of the inheritance that should have been received. If the gift that has been received is still less than the inheritance share, then the deficiency can be added; conversely, if it exceeds the inheritance share, the excess can be reclaimed and given to the heirs who are lacking in their share.

The retraction of a gift is an act that is disliked by Allah and is forbidden. as narrated in the Hadith by Al-Baihaqi, a giver of a gift is not allowed to retract what has been given, except (the giving) of a parent to their child. (Rosidin, Pendidikan Agama Islam untuk Perguruan Tinggi: Ibadah & Muamalah, 2017) However, a cancellation is allowed in certain matters, especially if there are deviations within it.

b. Comparison of Regulations on Grants in the Creation of Authentic Deeds According to Applicable Legislation

Based on Article 1682 of the Civil Code, the execution of a gift must be carried out with a notarial deed. The application of the grant rules according to Islamic law in the creation of an authentic deed also applies except for the direct hand-to-hand gift. A notary is an official authorized to create authentic deeds, including donation deeds. As a public official authorized to create authentic deeds, a notary plays a very important role in various legal transactions. Therefore, clear and comprehensive regulations regarding the position of notaries are necessary to ensure legal certainty and protect the interests of the public. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 on the Notary Position is a regulation aimed at perfecting the rules regarding the notary profession in Indonesia. In general, this law regulates various matters related to the position of a notary.

The transfer of land rights and ownership of apartment units can only be registered if proven by a deed made by the authorized PPAT. This is regulated in Article 37 paragraph (1) of Government Regulation No. 24/1997 concerning Land Registration. Land registration itself is one of the government's efforts to create a land system that is orderly, transparent, and just. With the existence of land registration, it is hoped that it can prevent land disputes, increase land value, and support national development.

In the process of creating a grant deed, the Notary and PPAT will ensure that all legal requirements are met, including the consent of the parties giving and receiving the grant, as well as legal certainty regarding the object of the grant. The deed that has been created must then be registered with the relevant authorities to ensure the legitimate transfer of rights. The creation of an authentic deed for a gift in Islamic law must consider several applicable principles and rules, both from the perspective of Sharia and the positive law recognized in a particular country.

The creation of an authentic deed for a grant aims to provide legal certainty and avoid disputes in the future. In the creation of an authentic deed, the notary must ensure that all the conditions and stipulations of the grant have been met in accordance with the pillars and requirements of Islamic law and the applicable regulations. In addition, the deed of gift must be recorded and certified by the authorized authority to provide formal legality. This registration is also important for administrative and documentation purposes, as well as to avoid claims or disputes from third parties. To see more clearly Comparison of regulations regarding grants

in the creation of authentic deeds according to the applicable legislation can be seen in the table below:

Table No. 1 Comparison Table of Regulations on Grants in the Creation of Authentic Deeds According to Applicable Legislation

NO.	KUHPer	KHI	Legislation	Analysis
1.	A gift is an agreement/consent in which a donor, during their lifetime, transfers an item free of charge and irrevocably, which is useful for the needs of the recipient who receives the transfer. (Article 1666 of the Indonesian Civil Code)	A gift is the voluntary and unrequited giving of an object from one person to another who is still alive to own. (Article 171 letter g KHI)	Not regulated	Hibah according to the Civil Code and Islamic Law is a gift from someone without expecting any return and aimed at providing benefits (advantages) to others. The gift is given while the giver is still alive.
2.	A fetus can receive a gift (Article 1679 of the Civil Code)	A baby still in the womb is not allowed to receive a gift.	Not regulated	KUHPer allows an unborn baby to receive a gift because KUHPer considers that an unborn baby is regarded as having been born. Whereas in Islamic Law, a fetus is not allowed to receive a gift.
3.	The implementation of the grant must be carried out with a notarial deed. (Article 1682 of the Indonesian Civil Code)	Not regulated	A notary is a public official authorized to create authentic deeds and has other authorities, including donation deeds. (Article 1 paragraph 1 of the Notary Law)	Based on Article 1682 of the Civil Code, the execution of a grant must be carried out with a notarial deed. Whereas the KHI does not regulate it. However, to ensure legal certainty and protect the interests of the community, the grant must be executed with a notarial deed.
4.	A gift cannot be revoked and therefore cannot be canceled if it does not meet the conditions stipulated in the agreement. (Article 1688 of the Civil Code)	A gift cannot be revoked, except for a gift from parents to their children. (Article 212 KHI)	Not regulated	KUHPer and Islamic Law actually do not allow the retraction/cancellation of a gift deed. However, there is an exception in the Indonesian Civil Code (KUHPer) where the cancellation of a gift is allowed if it does not meet the conditions stipulated in the agreement.

				Meanwhile, under Islamic Law, a gift can be revoked if the gift is from a parent to their child.
5.	Not regulated	Can donate up to a maximum of 1/3 of their assets. (Article 210 paragraph 1 KHI)	Not regulated	KUHPer does not limit the amount of goods that can be donated, whereas Islamic Law does not permit donations that deviate from the sense of justice. Therefore, Islamic law limits the amount, namely only up to a maximum of 1/3 of the inheritance.
6.	Not regulated	Not regulated	The transfer of land rights and ownership of apartment units can only be registered if proven by a deed made by the authorized PPAT. (Article 37 paragraph 1 PP No.24/1997)	In the Civil Code and Islamic Law, there are no regulations regarding the transfer of land rights, but there is legislation that governs the transfer of land rights, namely Government Regulation No. 24/1997 concerning Land Registration. Therefore, if there is a transfer of land rights, it must be proven with a PPAT deed in accordance with Article 37 paragraph 1 of PP No.24/1997.

Source: Processed from legal norms in the Civil Code, Islamic Law Compilation, Law No. 2 of 2014 on Land Registration, and Government Regulation No. 24 of 1997 on Land Registration.

The analysis of the theory of legal certainty can be achieved by integrating the principles of Islamic law and positive law. The creation of an authentic deed in the context of a gift provides legal certainty by offering formal and valid evidence of the transfer of rights, and ensuring that all procedures are properly followed. Legal certainty here means that all parties have legal protection and can rely on the validity of the conducted grant transactions. The integration between Islamic law and positive law in the creation of authentic deeds makes the regulations clearer and more consistent, where the application of the principles of grant law based on Islamic sharia aligns with the procedures of positive law, namely the creation of authentic deeds, thereby providing the legal certainty needed for all parties involved. This integration is important to ensure that the grants made are valid according to both Islamic law and state law.

1. Legal Consequences of the Cancellation of a Gift Deed Made by PPAT Based on the Decision of the Medan Religious High Court Number 112/Pdt.G/2019/Pta.Mdn **a. Procedure for Creating a Grant Deed by PPAT**

The process of land rights transfer in the form of a grant includes:

1. The parties, in this case, the grantor and the grantee, come to the PPAT Office to carry out the transfer of land rights, make an agreement to conduct a sale and purchase transaction, an agreement on land rights including the price agreement, as well as agreements on rights

- and obligations, tax payments, and other costs arising in connection with the sale and purchase of the land rights.
2. The certificate that has been submitted to the PPAT is then checked for its validity at the Land Office, and the land value zone for the certificate is determined.
 3. The certificate that has completed the verification and is declared free from disputes is then made into a deed of gift.
 4. The grant deed that has been typed is then read by the PPAT in front of the parties and witnesses, the parties who have agreed and understood the contents of the grant deed, then sign the grant deed.
 5. The signed deed of gift is assigned a deed number, authenticated by the PPAT, and then registered at the Land Office.
 6. The documents are registered at the document reception counter, at the document reception counter, the documents we register are first checked, if there are any errors, the documents will be returned for correction, but if they are correct, the documents can be accepted immediately.
 7. If it has been checked, the file is submitted to the entry section (data entry), so that the file data can be entered into the program at the Land Office, to obtain a file number, and then the file is paid at the treasurer's office or at the bank.
 8. If the payment at the payment counter has been settled, the file is submitted to the land book section, the land book referred to here is a copy of the original certificate to be donated that has been archived at the Land Office.
 9. If the land certificate book has been found, the file is submitted to the typing section. In the typing section, the certificate is typed from the name of the old owner to the new owner or the recipient of the grant.
 10. Then the file will be initialed and re-examined by the Head of the PPAT Section and the Head of the Land Rights and Land Registration Section and the Head of the Office.
 11. The file that has been initialed and signed by the head of the land office then receives Number 208 (208 is a completion number, a term used in the Land Office). After receiving number 208, the 208 officer submits the file to counter D. 301, and the certificate in the name of the new owner can be collected. (Ketut Suriawan, 2017)

b. The Process of Revocation of the Gift Deed Made by PPAT Based on the Decision of the Medan Religious High Court Number 112/Pdt.G/2019/PTA.Mdn

For the cancellation of a grant, it can be done by retraction or by expressing the intention to the recipient of the grant through deliberation or mediation first to create a PPAT deed regarding the legal act. If this is not fulfilled voluntarily, then the retraction must go through the court, where the cancellation of the PPAT deed is in the process of registration at the land office. This is in line with Article 45 of Government Regulation No. 24/1997 on Land Registration, which requires the cancellation of PPAT deeds to be done through a court decision because such cancellation necessitates careful and precise examination. Where this cancellation can be submitted to the Religious Court according to Article 49 of Law Number 3 of 2006 concerning amendments to Law Number 7 of 1989 on Religious Courts.

There are two provisions regarding the cancellation of PPAT deeds, namely: (Habib, 2014) 1) cancellation is carried out before registration at the land office, and 2) cancellation is carried out after or during the registration process at the land office. If the cancellation is done before the registration at the land office, it can be done with a notarial deed (party deed) because the acts contained in the PPAT deed are civil acts of the parties. Whereas if the cancellation is carried out during the registration process at the land office, in accordance with Article 45 of Government Regulation No. 24 of 1997, the cancellation must be done by a court decision.

The legal act in the PPAT deed is the act of the parties involved. If the parties agree or do not object, the parties come to the notary to create a cancellation deed. However, if the

parties are in dispute, one party can file for cancellation in court. This method can actually be used to cancel a PPAT deed that is in the registration process at the land office.

After the Court decides that the deed of gift is “legally ineffective,” meaning it is invalid or does not meet the stipulated requirements and therefore cannot be executed, the deed of gift must legally be returned to the donor or their heirs. However, if the name on the certificate issued by the BPN has already been transferred, the Plaintiffs or heirs must file a lawsuit with the State Administrative Court, hereinafter referred to as “PTUN,” by presenting a copy of the court’s decision within 90 days from the date the decision is declared valid by the panel of judges. (Nuh, 2024)

Based on the facts presented in the trial, the violation committed by the PPAT in the creation of Deed of Donation Number 184/Binjai Kota/2004 was due to the fact that in the creation of the deed, the object of the donation was joint property and was given at a time when one of the spouses had already passed away, so the creation of the deed of donation had to be approved by all heirs. In addition, the grant exceeded 1/3.

Regarding the violation, the PPAT may be subject to sanctions in accordance with Article 13 paragraph (1) of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation Number 2 of 2018 on the Supervision of Land Deed Officials, which states that the sanctions imposed on the PPAT for violations as referred to in Article 12 paragraph (2) may include written warnings, temporary suspension, honorable dismissal, or dishonorable dismissal. (Pasal 13 ayat (1) Peraturan Menteri Agraria Dan Tata Ruang/Kepala badan Pertanahan Nasional Nomor 2 Tahun 2018 Tentang Pengawasan Pejabat Pembuat Akta Tanah)

Violations regarding sanctions are also found in Article 6 paragraph (1) of the PPAT Association Code of Ethics, which states, Sanctions imposed on IPPAT association members who violate the Code of Ethics may include reprimands, warnings, suspension (temporary expulsion) from IPPAT association membership, and dishonorable dismissal from IPPAT association membership.

Before filing a lawsuit in court, the Plaintiffs want to cancel the grant by means of retraction or by expressing their intention to Defendants I, II, and III through deliberation/mediation. However, the Plaintiffs did not receive a good response, so the Plaintiffs pursued litigation through the court.

After filing a lawsuit in court and the court ruling that the deed of gift has no legal force, the deed of gift must be legally returned to the donor or, in this case, since the donor has passed away, it must be returned to the heirs according to the faraidh provisions. In this case, the deed of gift has already been transferred from the name STM to LL. Therefore, the Plaintiffs or heirs must file a certificate cancellation with the Administrative Court (PTUN) because the PTUN has the authority to annul state administrative decisions. Then submit a name transfer application to the BPN. For the distribution of the grant object, which is the inheritance property, the Plaintiffs must file a petition to the Court so that the object can be distributed to the heirs according to the faraidh provisions (Nuh, 2024).

c. Analysis of Legal Consequences of the Cancellation of a Grant Deed Made by PPAT Based on the Medan Religious High Court Decision Number 112/Pdt.G/2019/PTA.Mdn

Analysis of the legal consequences based on Satjipto Rahardjo’s provisions in the aspect of civil law, related to the annulment of deed of gift number 184/Binjai Kota/2004, shows that every legal event has a significant impact on the legal relationship between the parties. According to Satjipto Rahardjo, legal consequences arise due to legal relationships involving rights and obligations. In this context, the annulment of a gift deed implies the birth, change, or disappearance of a certain legal condition, namely the status of inheritance property ownership.

First, with the cancellation of the gift deed, the status of the property gifted by the late LL reverts to inheritance property that must be divided among all heirs. This creates legal clarity regarding who is entitled to the property, which is the result of the existing legal

relationship. This clarity is important to prevent future disputes, considering that uncertainty in ownership can lead to conflicts among the heirs. The cancellation of the gift deed restores the status of the property granted to the late LL into an inheritance that must be divided among all heirs. According to inheritance law, the rights of all heirs must be recognized and protected. The consequence of this decision is that the Plaintiffs, who are the legitimate heirs of the late OZL and the late STM, are entitled to a share of the inheritance that they previously did not enjoy. This creates clarity regarding who is entitled to the estate and eliminates the uncertainty that previously existed.

Second, this decision also creates changes in the legal relationship between the heirs. With the court's ruling, the rights of the heirs are recognized and protected, while the obligation to divide the inheritance is also emphasized. In this case, the theory of legal consequences asserts that every legal action, such as the creation of a deed of gift, must consider the rights and obligations of all parties involved. The court's decision also has a significant impact on the relationships among family members. The cancellation of the grant can cause tension and conflict among the heirs, especially between the Plaintiffs and Defendants I, II, and III, who are the heirs of LL. Disagreements regarding the division of inheritance can worsen family relationships, potentially leading to more legal disputes in the future.

Third, in the context of civil law, legal consequences also include the potential sanctions for parties who violate legal provisions. In this case, the act of creating a donation deed without involving all heirs can be subject to cancellation sanctions, especially if the donation exceeds 1/3 of the entire inheritance, which emphasizes that the law functions to protect individual interests and rights. This shows the importance of understanding rights and obligations in every legal action.

The theory of legal consequences explains that every legal action, including the creation of a grant deed, has consequences that must be accounted for by the parties involved. In the context of the cancellation of the deed of gift Number 184/Binjai Kota/2004, the analysis based on the theory of legal consequences can be seen from several crucial aspects.

From the perspective of the theory of legal consequences, this decision also provides the legal certainty necessary to protect the rights of the heirs. According to the theory of inheritance law, the transfer of inheritance rights must obtain the approval of all legitimate heirs. If the transfer of rights is carried out without this approval, then the action is considered invalid and can be legally annulled. This is in accordance with the principle that every heir has equal rights to the inheritance and should not be disadvantaged by unilateral actions of one of the heirs. (Djaja, 2024)

Thus, based on this analysis, it also highlights the importance of legal accountability. For the party that created the deed of gift, in this case the late STM, the actions taken must consider the legal implications of that decision. If the deed of gift is made without involving all the heirs, the consequence is that the deed can be annulled, especially if the gift given exceeds 1/3 of the total amount of the inheritance or estate, and all parties must be prepared to face the legal consequences of the actions taken.

Based on the theory of legal certainty, it can be concluded that the annulment of this gift deed not only restores the rights of the heirs but also creates various consequences that must be carefully considered. From the impact on family relationships to implications for third parties, this decision shows that every legal action has wide-ranging effects, and it is important for all parties to understand and consider the consequences of their actions within the legal context.

Thus, this analysis also demonstrates that the legal consequences in the aspect of civil law, as explained by Satjipto Rahardjo, not only encompass changes in legal status but also the affirmation of rights and obligations, as well as the protection of the interests of the parties involved. The court's decision in this case creates the necessary legal certainty for the heirs, while also reminding all parties of the importance of adhering to the applicable legal procedures to prevent unwanted negative impacts.

2. The Judge's Considerations in Deciding the Dispute Regarding the Grant Based on the Decision of the Medan Religious High Court Number 112/Pdt.G/2019/Pta.Mdn Have Satisfied the Sense of Justice for the Parties

a. Case Position Decision of the Medan High Religious Court Number 112/Pdt.G/2019/PTA.Mdn

The case position in the Religious High Court decision Number 112/Pdt.G/2019/PTA.Mdn dated September 16, 2019, upheld the Binjai Religious Court decision Number 399/Pdt.G/2018/PA-Bji dated April 8, 2019, involving several parties, namely:

- | | |
|--|----------------------|
| 1. Plaintiffs/Appellees | : HEL, HRL, AEL, ZL. |
| 2. Defendants I and II/Appellants I and II | : FAP, LSP. |
| 3. Defendant III/Co-Appellant I | : SP |
| 4. Defendant IV/Co-Appellant II | : Notary/PPAT SS |
| 5. Co-defendant/Co-defendant III | : BPN. |

This case began with the creation of a deed of gift number 184/Binjai Kota/2004 by the late STM in the presence of Notary/PPAT SS, hereinafter referred to as Defendant IV, on May 28, 2004, concerning a permanent house unit measuring 7x15M, with a zinc roof, ceramic floor, electrical facilities, and a land plot measuring 17x30M located on Jalan Sultan Hasanuddin Lingkungan I, Setia Village, Binjai District, in accordance with Ownership Certificate Number 370 dated November 28, 1994, issued by the National Land Agency Office of Binjai City.

The land and the house are joint property acquired during the marriage of the late STM and the late OZL. It is known that the late OZL passed away first on October 15, 1994, leaving behind a wife, the late STM, and five biological children, namely HEL, HRL, LL, AEL, and ZL. However, there was 1 child who passed away in childhood, namely DL. After the late OZL passed away, the land and house, which were joint property, were bequeathed by the late STM to one of her children named LL on May 28, 2004, and then on October 20, 2008, the late STM passed away. Due to the passing of the late OZL and the late STM, the inheritance door has opened, and the heirs of the late OZL and the late STM are HEL, HRL, LL, AEL, and ZL. However, since the only inheritance has been donated to one of his children named LL, the other heirs do not receive any inheritance at all. On November 18, 2017, LL passed away, and during his lifetime, he was married to SP and had two children, FAP and LSP.

HEL, HRL, AEL, and ZL, hereinafter referred to as The Plaintiffs, filed a written lawsuit with a lawsuit letter dated September 3, 2018, which was received and registered at the Binjai Religious Court's Registry on September 4, 2018. They filed a lawsuit for the annulment of the deed of gift number 184/Binjai Kota/2004 because they believe that the land and house have been controlled by SP, FAP, and LSP, hereinafter referred to as Defendants I, II, and III. They also believe that the gifted property is an inheritance from the joint property of the late OZL and the late STM, which has never been divided because it was gifted and transferred to the late LL. Previously, the Plaintiffs had approached Defendants I, II, and III to divide the inheritance among the heirs, but Defendants I, II, and III refused to do so. Therefore, the Plaintiffs filed this lawsuit with the Binjai Religious Court because they objected to the existence of the deed of gift.

The plaintiff's application submitted to the Chief of the Binjai Religious Court is:

1. Granting the lawsuit in its entirety;
2. Declaring the grant according to the grant deed number 184/Binjai Kota/2004 made in front of co-defendant IV and the Ownership Certificate Number 370 dated November 28 is null and void by law;
3. Appointing HEL, HRL, LL, AEL, and ZL as heirs;
4. Establish Defendant I, II, and III as the heirs of the late LL;
5. Declaring that the property granted to the late LL is the inheritance from the late OZL and the late STM;

6. Establishing each heir's share of the inheritance with the provision of a 2 to 1 ratio for male children to female children;
7. Placing a lien on the object of the case;
8. Punishing the Plaintiffs and Defendants to divide the joint property amicably, otherwise it must be auctioned at the auction house and the proceeds distributed to the heirs according to their respective shares;
9. Imposing court fees in accordance with applicable regulations.

The Binjai Religious Court, based on the lawsuit filed by the Plaintiffs against Defendants I, II, and III on April 8, 2019, adjudicates:

In Exception: Rejecting the Co-Defendant's Exception

In the Main Matter:

1. Granting the Plaintiffs' lawsuit;
2. Declaring the Deed of Donation Number 184/Binjai Kota/2004, dated May 28, 2004, for a plot of land with Ownership Certificate Number 370 located in Setia Village, issued by the Acting Head of the Binjai City Land Office in 1994, to be legally invalid;
3. To impose on Defendant I, II, and III, Defendant IV, and Co-Defendant to pay court costs amounting to 6,106,000.00 (six million one hundred six thousand rupiah).

Defendants I and II were dissatisfied and objected to the decision, and subsequently filed an appeal to the Medan High Religious Court. The panel of judges of the Medan High Religious Court, based on legal considerations, rendered the following decision:

1. Receiving the appeal request from the appellants;
2. Confirming the Decision of the Binjai Religious Court Number 399/Pdt.G2018/PA.Bji dated April 8, 2019;
3. Orders the Appellants to pay the appeal court fees amounting to Rp.150,000.00 (one hundred fifty thousand rupiah).

b. Analysis of the Legal Standing on the Cancellation of the Gift Deed Made by PPAT Based on the Decision of the Medan Religious High Court Number 112/Pdt.G/2019/PTA.Mdn

Legal standing or locus standing is a condition when a party is considered eligible to file a dispute resolution application in a court. Legal standing in the context of this case refers to the rights and authority of the parties to file a petition in court. The decision of the Medan High Religious Court provides certainty regarding the status of the bequeathed inheritance, while also protecting the rights of the heirs. Thus, the legal position not only serves as a means to seek justice but also as a guarantee that the law will be enforced consistently and fairly in society.

In this ruling, one of the legal standings of the Plaintiffs that is very important to understand is regarding the losses they have suffered. The Plaintiffs feel aggrieved because they did not receive an inheritance from their parents, which should have been their right as heirs. The parents' decision to bequeath all their wealth to one of their children, LL, raises questions about fairness and equality in the distribution of the inheritance. This loss is not only material but also emotional, as they feel neglected in a process that should involve all heirs. Thus, their legal standing in this matter is strengthened by the existence of tangible losses, which serve as the basis for them to file a petition in court to seek justice and address the injustice they feel.

The legal position in the judge's ruling, which states that the deed of gift Number 184/Binjai Kota/2004 dated May 28, 2004, has no legal force, reflects an effort to uphold the principles of justice and legal certainty in the context of inheritance distribution. By annulling the deed of gift, the judge affirmed that STM's action of donating property to only one child was contrary to the provisions governing the rights of all heirs. This decision shows that the donated property is still joint property, and therefore cannot be fully allocated to one individual without involving the rights of other heirs. Thus, the legal position of other heirs who feel aggrieved is recognized and protected, ensuring that they have access to fight for their rights in court. This not only provides justice for the parties involved but also serves as a precedent

for similar cases in the future, highlighting the importance of fair treatment in the distribution of inheritance.

Furthermore, in the context of legal standing, the analysis of unlawful acts committed by the donor and the recipient of the gift, in this case including Defendants I, II, and III who are the heirs of the recipient, is also very important to understand. Based on Article 1365 of the Civil Code, it is stated that "Any unlawful act that causes harm to another person obliges the person who caused the harm due to their fault to compensate for the loss." In this case, the act of the grantor, Mrs. STM, giving more than 1/3 of her total assets to one child, without involving other heirs, can be considered an unlawful act. In addition, the action also violates the provisions of Article 210 of the KHI, which states that permissible gifts can only be given up to a maximum of 1/3 of the total assets. At the time the gift was given, Mrs. STM's husband, Mr. OZL, had passed away, which legally opens the inheritance of the estate because it is considered joint property of Mrs. STM and Mr. OZL.

In this case, the donated property clearly exceeds the established limits, making it legally invalid. Thus, the heirs who are family members of the donor, either directly or indirectly, have the right to claim the property, considering that the inheritance has been opened. The legal standing of these heirs is reinforced by their right to demand the annulment of the gift deed that violates legal provisions. They can file a lawsuit in court to request that the deed of gift be declared invalid, so that their rights as heirs can be recognized and protected. This shows that the legal standing of the heirs is not only based on the losses they have suffered but also on the effort to uphold justice and comply with the applicable legal norms.

If the property being donated includes jointly owned property and is the only property that will become inheritance, then in the process of making the donation deed, all heirs of the donor must be summoned. The heirs, in this case, the children, need to sign a declaration stating that they are aware that their mother is giving a gift to one of her children, to prevent disputes or lawsuits in the future. However, it seems that the PPAT did not do this, so the heirs filed a lawsuit in the religious court to claim their rights as heirs. They feel that they were not consulted or given approval for the grant, and they believe their rights (legitime portie) have been violated, causing them to feel disadvantaged by the grant that was made.

Therefore, according to one of the PPATs in the city of Medan, Mrs. Agusnita Chairiza, S.H., SpN., M.Kn., in the preparation of a grant deed, the principle of prudence needs to be applied to prevent disputes in the future. In this case, the PPAT must ensure that the portion being donated complies with the applicable legal provisions. If the donor is a Muslim, it is important to ensure that the portion being donated does not exceed 1/3 of the total inheritance owned by the donor. In addition, the PPAT must also clearly understand the status of the donated property, the relationship between the parties, and whether the husband, wife, or one of the parties has passed away to determine whether the inheritance is open or not. (Pejabat Pembuat Akta Hibah di Kota Medan, 2023)

The principle of prudence for PPAT is only explained in Article 22 of Government Regulation Number 37 of 1998. That the PPAT Deed must be read/explained to the parties in the presence of at least 2 (two) witnesses before being signed immediately by the parties, witnesses, and PPAT. Meanwhile, in its implementation, the PPAT not only ensures that the parties appear before the PPAT as the official who prepares, reads, and explains the deed, but also, in accordance with the principle of prudence, the PPAT can avoid and prevent errors that could lead to problems in the creation of authentic deeds. (Aulia, 2022)

The application of this principle of prudence is important to ensure that the rights of all parties involved, especially the heirs, are recognized and protected. Without proper implementation, PPAT risks facing legal consequences that could harm all parties involved, including potential disputes that may arise in the future. Thus, although protected by law, the obligation to act carefully and according to procedure remains the responsibility of the PPAT in every transaction they conduct.

In addition, the PPAT is expected to apply the principle of prudence in the creation of the grant deed by fulfilling various requirements, including ensuring that the portion granted does not exceed 1/3 of the total inheritance assets. However, in this case, the PPAT seems

to have failed to fulfill that obligation, resulting in the deed of gift being legally invalid. The failure to involve all entitled parties in this process not only harms the heirs but also increases the risk of future disputes. Therefore, it is important for the PPAT to act in accordance with the applicable legal provisions, in order to prevent legal consequences that could harm all parties involved. (Pejabat Pembuat Akta Hibah di Kota Medan, 2023)

By not applying the principle of prudence, it can lead to problems as seen in the deed of gift Number 184/Binjai Kota/2004 dated May 28, 2004, which initially had a clear legal standing but was later annulled and became legally ineffective. This cancellation was caused by the failure to fulfill several important requirements in the process of creating the deed of gift by the PPAT. One of the main issues is the disagreement among the heirs who feel aggrieved by the grant, where the amount of the grant exceeds one-third of the total inheritance. Thus, the failure to comply with the applicable legal provisions and to involve all entitled parties in this process causes the deed of gift to lose its legal force and creates potential disputes in the future, as seen in the Religious High Court Decision Number 112/Pdt.G/2019/PTA.Mdn.

Thus, the analysis of legal standing in the context of loss and unlawful acts shows that the Plaintiffs have a strong basis to file a lawsuit for the annulment of the grant to the Religious Court. First, the losses experienced by the Plaintiffs as heirs are the main basis for this lawsuit. The Plaintiffs feel aggrieved because they did not receive their rightful share of the inheritance, which should have been part of the plaintiffs' portion, due to the actions of the grantor who bequeathed more than 1/3 of their total assets to one of the children. As regulated in Article 1365 of the Indonesian Civil Code, any act that violates the law and causes harm to others obliges the perpetrator to compensate for the loss. In this case, the actions of the donor that violate the legal provisions regarding the limits of gifts clearly result in losses for the other heirs. The Plaintiffs lost their right to the share of the inheritance that they were supposed to receive, which directly impacts the legal position and justice of the plaintiffs.

Furthermore, the violation of Article 210 of the KHI, which stipulates that a gift must not exceed 1/3 of the total assets, further strengthens the Plaintiffs' argument. By giving a grant that exceeds the stipulated provisions, both the grantor and the grantee have committed an unlawful act. This creates a strong legal basis for the Plaintiffs to demand the annulment of the gift deed, as the deed not only harms the plaintiffs but also contradicts the prevailing norms and legal provisions.

The combination of the losses suffered by the Plaintiffs and the unlawful act provides legitimacy for the plaintiffs to file a lawsuit in the Religious Court. The plaintiff has the right to seek recognition and legal protection of the inheritance rights that the plaintiff should receive. Thus, the legal standing of the Plaintiffs not only encompasses the aspect of loss but also emphasizes the importance of law enforcement and justice in the distribution of inheritance. This emphasizes that any legal action that violates norms must be accountable, and the Plaintiffs have the right to fight for the plaintiffs' rights through legal channels.

Based on the explanation above, we can see that the legal standing in this case includes the rights and authority of the parties to file a petition in court. In addition to the legal standing held by the plaintiff, the defendant also has legal standing, namely in the appeal process submitted by Defendant I and Defendant II (as Appellants), which is declared formally acceptable because it has met the procedures and deadlines stipulated by the law. Although Defendants I, II, and III did not attend the previous hearing and did not submit an appeal memorandum, they still have the right to file an appeal based on the provisions of Article 51 paragraph (1) of Law Number 7 of 1989 concerning Religious Courts. This shows that their legal standing is recognized, although their reluctance to actively participate in the previous proceedings creates the impression that they are not earnest in defending their rights. The judge also considered fairness in the distribution of inheritance, asserting that STM's mother's action of bequeathing to only one child was contrary to the principles of justice and applicable legal provisions. This decision not only ensures the protection of the rights of heirs who feel aggrieved but also upholds the principle of justice in the distribution of inheritance.

c. Analysis of the Judge's Considerations in Deciding the Dispute Regarding Grants Based on the Medan High Religious Court Decision Number 112/Pdt.G/2019/PTA.Mdn Has Fulfilled the Sense of Justice for the Parties

The judge's considerations in this case reflect a balance between legal certainty and justice, where the court's decision not only upholds legal norms but also ensures the protection of the rights of all parties involved, thereby creating substantive justice and avoiding potential disputes in the future. Based on this, the analysis of the judge's considerations in deciding the dispute over the grant in this ruling uses the theory of legal certainty and the theory of justice. The analysis of judicial considerations in the context of the theory of legal certainty can be explained through several important aspects, namely:

1. Legal certainty means that the law must be clear and not give rise to various different interpretations. In the case of the annulment of a gift deed, the court's decision provides clarity about the status of the inheritance, so that all parties can understand their rights well.
2. The law functions as a rule that creates order among members of society. In this context, the law aims to protect the rights of the heirs and ensure that the actions of the grantor do not harm other parties. The uncertainty that arises from the neglect of legal procedures by the PPAT can lead to injustice and disputes in the future.
3. Legal certainty also includes legal security. This means that individuals or society need to know what the law is regarding a certain matter before they become involved in the legal process. In this case, the heirs who feel aggrieved by the deed of gift have the right to know that their rights are protected by existing laws and to be assured that they can fight for their rights in court.

The court's decision to annul the grant deed reflects the application of these principles and provides certainty that the rights of all heirs are recognized and protected. This is reflected in the court's decision to annul the gift deed that did not comply with the applicable legal provisions. By annulling the deed, the judge provided certainty regarding the status of the inheritance and protected the rights of the heirs, so that all parties could clearly understand their legal positions.

In line with the legal standing of the heirs who feel aggrieved by this decision, it provides access for them to fight for their rights in court. This shows that the legal system not only serves as a means of dispute resolution but also as a guarantee that individual rights will be respected and protected. In this context, the failure of the PPAT to apply the principle of prudence and meet the necessary legal requirements becomes a significant factor. This shows that although the law provides protection and responsibility to act in accordance with legal principles, justice and legal certainty still rest in the hands of legal professionals. This court ruling can only state that the deed of gift issued by the PPAT has no legal force, so the status of the property reverts to its original state as joint property between STM and OZL Lubis. PPAT should pay attention to both the material and formal requirements for the creation of the deed. The material requirements of the PPAT deed-making procedure must meet subjective requirements (the subject of rights or the parties involved or the witnesses) and objective requirements (the object of rights being transferred) in the making of the PPAT deed, while formal requirements can only be fulfilled once the material requirements have been met. If the subjective and objective requirements are violated, the PPAT deed can be requested for annulment and/or declared legally void. (Siti Khurfatul Jannah, 2018)

It is important to note that judges do not have the authority to annul certificates that have been issued, because these certificates are issued by PPAT, who is the authorized official in the deed-making process. In this case, the authority to annul the certificate lies with the Administrative Court in accordance with the applicable legal provisions. Therefore, although the judge's decision reflects an effort to uphold justice, further actions regarding the cancellation of the certificate must go through the proper legal process and adhere to existing procedures, so that all parties receive clear legal certainty.

This is in line with the opinion of Mrs. Agusnita Chairiza, S.H., SpN., M.Kn., who stated that the judge or court is only authorized to annul the deed of gift. However, since the name

on the ownership certificate of the grant has already been transferred, the legal action that can be taken to revert the grant property back to the original owner's name and enable the distribution of inheritance is for the heirs to file a lawsuit with the Administrative Court so that the court can execute and annul the certificate of the grant property. However, since the name on the ownership certificate of the grant has already changed, the legal action that can be taken to revert the grant property back to the original owner and enable the division of inheritance is for the heirs to file a lawsuit with the Administrative Court so that the court can execute and annul the certificate of the grant property.

In the application of the principle of justice, the judge opined that with this ruling, the PPAT should also play a greater role in helping to return the property to the rightful party in accordance with their authority as PPAT and the maker of the gift deed. This aims to ensure that the return of the property is carried out fairly and in accordance with the applicable legal provisions. For the grant recipients who feel aggrieved, in this case, the heirs of LL, they will still receive a portion of the estate after the decision is made because they also hold the position of heirs. It is important that the entire process of asset distribution is carried out transparently and does not cause disputes in the future, while also respecting the rights of all parties involved. Thus, the judge's decision not only restores justice but also provides legal certainty for all parties involved.

IV. CONCLUSION

1. Comparison of Grant Regulations in Authentic Deed Making The comparison of grant regulations in the making of authentic deeds according to applicable legislation highlights that grants, both in the Civil Code and Islamic law, are gifts given voluntarily without expecting anything in return from the grantee. However, there are notable differences between the two legal systems. These differences include regulations regarding grants to unborn children, the maximum limit of assets that can be granted, the revocation of granted property, grants between spouses, and the formal requirements for grants. In the Civil Code, grants must be documented through an authentic deed, while Islamic law does not explicitly regulate this requirement. Nonetheless, to ensure legal certainty, grant deeds must be executed in the form of an authentic deed by an authorized official, specifically a notary, as stipulated in the Notary Position Law. Furthermore, while both the Civil Code and Islamic law do not directly regulate the transfer of land rights, Government Regulation No. 24 of 1997 concerning Land Registration mandates that such deeds must be prepared by a Land Deed Official (PPAT).
2. Legal Consequences of Canceling a Grant Deed Made by PPAT Based on the decision of the Medan Religious High Court Number 112/Pdt.G/2019/PTA.Mdn, the Grant Deed Number 184/Binjai Kota/2004 was declared legally invalid due to its failure to meet the necessary legal requirements. As a result, the donated land and building were reclassified as part of the inheritance estate and distributed among the heirs according to faraidh provisions. Regarding the legal consequences for the Notary/PPAT involved, they were sanctioned by being required to pay court costs.
3. Judicial Considerations in Grant Dispute Resolution The judge's considerations in resolving grant disputes, as reflected in the Medan Religious High Court Decision Number 112/Pdt.G/2019/PTA.Mdn, aimed to uphold a sense of justice for both parties. The judges maintained impartiality and recognized the equal rights and obligations of all parties involved, ensuring a fair and balanced verdict.

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