

Legal Protection for Heirs Against Unilateral Possession of Inherited Assets Under Indonesian Civil Law

I Made Yudi Darmawan¹
Universitas Mahendradatta

Nurianto RS²
Universitas Mahendradatta

Komang Edy Dharma Saputra³
Universitas Mahendradatta

Correspondence : I Made Yudi Darmawan (madeyudi613@gmail.com)

Abstract

Unilateral control over inherited property is one of the problems that frequently causes disputes among heirs. Such disputes arise when one heir controls, uses, benefits from, or transfers the deceased's estate without the consent of other heirs. This study aims to analyze the legal protection available to heirs against unilateral control of inherited property and the legal remedies that may be pursued under Indonesian civil law. This research uses an empirical legal research method with statutory, conceptual, and case approaches. Legal materials were obtained through literature study, while empirical data were obtained through interviews with legal practitioners and members of the community. The results indicate that legal protection for heirs is provided through preventive and repressive mechanisms. Preventive protection is provided through inheritance law provisions governing the status and rights of heirs, while repressive protection is provided through dispute resolution mechanisms, including inheritance division claims, unlawful act claims, cancellation of transfers of rights, and compensation claims. Unilateral control is influenced by limited legal understanding, the absence of a clear division of inheritance, the economic value of inherited property, family conflicts, control over ownership documents, and the failure to resolve disputes at an early stage. Disputes may be resolved through family deliberation, mediation, or litigation. Therefore, strengthening legal awareness and promoting early dispute resolution are necessary to ensure legal certainty, justice, and effective protection for all heirs.

Keywords: *Legal Protection; Heirs; Inherited Property; Unilateral Control; Civil Law.*

INTRODUCTION

Inheritance law constitutes a crucial component of civil law, as it governs the transfer of the rights and obligations of a deceased person to those entitled to receive them as heirs. In practice, matters of inheritance extend beyond merely determining who qualifies as an heir; they also encompass the possession, use, utilization, and distribution of the deceased's estate. In principle, once the succession opens, heirs hold rights to the estate in accordance with their legal standing under applicable law. Prior to distribution, the estate essentially remains undivided. Consequently, it is improper for any single heir to treat the entire inheritance as personal property while disregarding the rights of other heirs.

Issues arise when one of the heirs takes exclusive control of the inherited assets. Such control may manifest as occupying the inherited land or house, retaining possession of title deeds and ownership documents, selling inherited property without the consent of other heirs, renting out the assets and personally keeping the proceeds, transferring the title into their own name, or preventing

other heirs from deriving benefits from the estate. This situation can result in both material and non-material losses. Other heirs may lose the opportunity to use the inherited assets or derive economic benefits from them. Furthermore, inheritance disputes often escalate into protracted family conflicts. Research findings from the thesis indicate that such conflicts can even strain family relationships and lead to a sense of injustice among heirs whose rights have been disregarded.

Unilateral possession is also relevant to the provisions concerning unlawful acts. If the actions of an heir satisfy the elements of an unlawful act—namely fault, loss, and a causal link between the act and the loss—the aggrieved party may file a claim pursuant to Article 1365 of the Indonesian Civil Code. In practice, disputes of this nature can also be observed in Denpasar District Court Judgment Number 294/Pdt.G/2017/PN Dps. The judgment highlights the importance of protecting the rights of heirs in instances where inheritance assets are unilaterally appropriated.

Based on this background, the issues examined in this study are: first, what form of legal protection is available to heirs regarding the unilateral possession of inherited assets under Indonesian civil law? Second, what legal avenues can heirs pursue to resolve the issue of unilateral possession of inherited assets under Indonesian civil law?

METHODS

This study is an empirical legal research project supplemented by library-based research. It examines legal provisions concerning inheritance law, the rights of heirs, ownership of the inheritance estate, unlawful acts, and dispute resolution mechanisms. The study employs the statute approach, the conceptual approach, and the case approach. The statute approach is used to analyze civil law provisions regarding inheritance and the protection of civil rights. The conceptual approach is utilized to understand the concepts of legal protection, legal certainty, justice, and the possession of the inheritance estate. The case approach is applied through an analysis of the Denpasar District Court Decision Number 294/Pdt.G/2017/PN Dps.

Empirical data for this study was obtained through interviews with legal practitioners and members of the public possessing knowledge or experience regarding disputes over the possession of inherited assets. This data serves to reinforce the analysis of how the law is applied in practice. A qualitative analysis was conducted by correlating legal provisions, theories, expert opinions, interview findings, and court rulings to draw conclusions regarding the forms of legal protection and the mechanisms for resolving disputes arising from the unilateral possession of inherited assets.

RESULTS AND DISCUSSION

Forms of Unilateral Appropriation of the Inherited Estate

Unilateral control over an inheritance refers to an action taken by one of the heirs or a specific

party to possess, use, utilize, or transfer the deceased's estate without regard for the rights of other heirs. Such action contravenes the principle that, prior to distribution, the inheritance does not constitute the exclusive property of any single heir. In practice, there are several forms of unilateral possession. The first is physical possession of inherited land and buildings. In this scenario, one heir exclusively occupies or uses the house and land left by the deceased, thereby preventing the other heirs from using or enjoying the property.

Secondly, possession of certificates and ownership documents. Documents such as freehold titles, sale and purchase deeds, savings passbooks, time deposit certificates, securities, and business ownership documents may be held by a single heir. Possession of these documents can grant control over the inherited assets and potentially enable legal actions to be taken without the knowledge of the other heirs. Third, the sale of inherited assets without the consent of all heirs. This practice frequently occurs, particularly with land and buildings of high economic value. Selling such assets without the consent of the other heirs can give rise to legal issues, as the selling party does not necessarily have the authority to treat the entire inherited property as their own personal asset.

Fourth, the renting out of inherited property for personal gain. One of the heirs might rent out a house or land left by the deceased and keep all the rental income without sharing any portion with the other heirs. Fifth, the appropriation of proceeds or economic benefits derived from the inherited assets. For instance, inherited land might be used for business activities, rented out, or otherwise utilized to generate profit, yet the resulting income is enjoyed solely by one of the heirs.

Sixth, transferring the title of inherited land into one's own name without the consent of the other heirs. Such an action has the potential to trigger disputes, as it alters the legal status of the inherited property and may infringe upon the rights of other heirs. Seventh, obstructing other heirs from accessing the inherited property or information regarding the estate. Examples include blocking access to the inherited home, concealing documents, or withholding information about the existence of the deceased's assets. Thus, unilateral control is not limited to physical possession; it also encompasses legal and administrative actions that diminish or eliminate the opportunity for other heirs to exercise and enjoy their rights.

Legal Protection for Heirs

Legal protection for heirs can be categorized into preventive protection and repressive protection. Preventive protection is provided before a violation occurs, whereas repressive protection is granted after a violation of rights has taken place. Preventive protection is realized through inheritance law provisions that determine who is entitled to be an heir, the rights inherent to heirs, the objects of the inheritance, and the mechanisms for distributing the estate. With these provisions in

place, every heir possesses a legal basis to uphold their rights regarding the deceased's estate.

In the context of unilateral possession, preventive protection can be achieved through the clear, written distribution of the inheritance following the testator's death. Such a clear distribution prevents the misconception that the heir physically holding the inherited assets is the sole owner. Furthermore, ownership documents must be kept and managed transparently; if only one heir holds the title deeds or important documents, it creates an imbalance of power among the heirs and increases the risk of misuse.

Repressive protection is granted when the rights of an heir have been violated. An aggrieved heir may file a lawsuit in court to seek the restoration of their rights. One legal basis that can be invoked is Article 1365 of the Indonesian Civil Code regarding unlawful acts. If unilateral possession results in loss, the aggrieved heir may claim the return or surrender of the inheritance object, the distribution of the estate, the annulment of specific legal acts, and/or compensation for damages, provided that the elements of the claim are met.

Protection through the judicial system is significant because court rulings can provide certainty regarding the standing of heirs and the status of the disputed object. Sudikno Mertokusumo explains that the law must be capable of protecting human interests while establishing order and legal certainty. In this study, legal protection for heirs must ultimately be directed toward three primary objectives: legal certainty, justice, and the restoration of rights.

Factors Leading to Unilateral Seizure of Control

Research findings indicate that unilateral control is not caused by a single factor alone; rather, it stems from a combination of legal, economic, social, and psychological factors, as well as family relationships.

1. Absence of clear inheritance distribution

A dominant factor is the failure to distribute the inheritance promptly following the testator's death. The estate is left undivided for years, causing the extent of each heir's rights to become unclear. Interviews with legal practitioners on June 12, 2026, revealed that many inheritance disputes stem from estates left without clear distribution. This situation ultimately leads one of the heirs to feel more entitled to the assets and to unilaterally take control of the property.

2. Limited legal understanding

Some heirs do not realize that physical possession of inherited property does not automatically make a person the sole owner. This lack of legal understanding gives rise to the perception that the party residing on or managing the land and house left by the deceased holds greater rights.

3. Possession of ownership documents

Possession of certificates, deeds, account records, and other documents by one of the heirs can place that individual in a stronger position to control the inherited assets. This can serve as a means to hinder other heirs from obtaining their rights.

4. Economic value of inherited assets

Land, houses and productive assets have high economic value. The higher the economic value of a heritage object, the greater the potential for the desire of one party to control the object exclusively.

5. Internal family conflict

Conflicts regarding inheritance often stem from pre-existing issues within family relationships. Interviews revealed cases where the dispute was rooted in family conflict that predated the testator's death, with the inheritance subsequently becoming the focal point of competing interests.

6. The assumption that certain heirs have a superior right

The view persists that the eldest child or the person who cared for the deceased holds a greater right to the entire estate. Such a view can lead to unilateral actions to take control of the assets, even though, legally, the status of heirs must be determined based on applicable laws.

7. Failure to resolve disputes at an early stage

A lack of family deliberation and mediation also exacerbates disputes. Issues left unresolved from the outset can escalate into unilateral actions that disadvantage other heirs.

Thus, resolving inheritance disputes requires more than just a formal legal approach; it also calls for communication, deliberation, and a family-oriented approach.

The Impact of Unilateral Possession on Heirs

Unilateral possession gives rise to various consequences for the other heirs.

- 1 First, the loss of the opportunity to possess and enjoy the inherited assets. One research respondent noted that when an inherited house is occupied by a single sibling, the other heirs are unable to use or derive benefit from the property, despite holding equal rights to it.
- 2 Second, economic loss arises. Research findings reveal instances where inherited land is leased out by one heir for years without the rental income being shared with the other heirs.
- 3 Third, conflict and family fragmentation occur. Inheritance disputes can strain relationships among family members, sometimes leading to a complete breakdown in communication between the disputing parties for years.
- 4 Fourth, a loss of the sense of fairness. Heirs whose rights are disregarded may feel unjustly treated, as the benefits of the estate are enjoyed by only one party.

- 5 Fifth, non-material losses arise, including psychological stress, disappointment, family conflict, and the breakdown of familial ties.

Therefore, the resolution of inheritance disputes must take into account not only the economic value of the estate but also the continuity of family relationships.

Efforts to Resolve Disputes Over Unilateral Possession

Upaya penyelesaian dapat dilakukan melalui jalur nonlitigasi maupun litigasi.

1. Family Deliberation

Deliberation is the initial step that heirs can take. Through this process, the parties involved can identify the entire estate, determine the heirs, discuss their respective shares, and agree upon a distribution mechanism. Deliberation offers the advantage of preserving family relationships and avoiding lengthy court proceedings.

2. Mediation

If family deliberation is unsuccessful, the parties may resort to mediation. Mediation is a dispute resolution process conducted through negotiation with the assistance of a neutral mediator. In inheritance disputes, mediation is significant because it allows family relationships to be preserved. Unlike litigation, which tends to result in a win-lose outcome, mediation provides space for the parties to seek a mutually acceptable solution. Supreme Court Regulation (PERMA) Number 1 of 2016 establishes mediation as a crucial component of civil case resolution in court. The regulation emphasizes mediation as a means of resolving disputes peacefully and effectively, while also supporting the administration of justice that is simple, speedy, and low-cost. In inheritance cases, a mediation agreement may take the form of the division of inheritance assets, the sale of assets and distribution of the proceeds, joint management, the payment of compensation to specific heirs, or the transfer of assets to the entitled heirs.

3. Lawsuit for the Division of Inheritance

If no agreement is reached, the heirs may file a lawsuit with the court regarding the division of the inheritance. Such a lawsuit may request the court to identify the heirs, determine the assets comprising the inheritance, establish the respective shares of each heir, and order the division or handover of the inheritance assets. A lawsuit regarding the division of an inheritance is significant because it provides legal certainty concerning the rights of each heir and puts an end to the state of the inheritance remaining undivided.

4. Lawsuit for Unlawful Act

If unilateral possession results in loss, heirs may file a lawsuit for an unlawful act pursuant to Article 1365 of the Indonesian Civil Code. This lawsuit may be pursued if it can be proven that there

was an act contrary to the law, fault, loss, and a causal link between the act and the loss. In the context of inheritance disputes, claims may take the form of the return of the inherited asset, the cessation of possession, the distribution of proceeds derived from the asset's use, and compensation for damages, provided these can be legally substantiated.

5. Annulment of the Transfer of Rights

If an heir transfers rights to an inherited asset without regard for the rights of other heirs, the aggrieved party may pursue legal action to seek the annulment of said legal act, depending on the circumstances and legal grounds of the case. Such action is particularly crucial when the inherited asset—such as land—has been transferred to a third party. The sooner legal action is taken, the greater the likelihood of preventing further loss.

6. Claims for Compensation

Aggrieved heirs may also claim compensation if the act of unilateral possession is proven to constitute an unlawful act. Damages may include material losses—such as the loss of economic benefits derived from land, houses, or inherited assets—as well as non-material losses related to psychological distress and the breakdown of social relationships.

Analysis of Denpasar District Court Judgment Number 294/Pdt.G/2017/PN Dps

Denpasar District Court Decision Number 294/Pdt.G/2017/PN Dps illustrates the importance of legal protection for heirs in disputes concerning the deceased's estate. The ruling demonstrates that the inheritance is linked to the heirs' joint rights, meaning it cannot be treated arbitrarily by any single party. The court serves to provide certainty regarding the status of the parties and their rights concerning the inherited assets.

Court rulings in inheritance disputes serve not only to resolve conflicts but also to provide protection for parties whose rights have been violated. From the perspective of justice, every heir is entitled to receive their share in accordance with their legal standing. This aligns with the theory of justice applied in this study. Justice requires a balance between the rights and interests of the parties involved, ensuring that no single party gains an advantage at the expense of another's rights. Consequently, the court plays a crucial role as an instrument of remedial protection when efforts at deliberation and mediation prove unsuccessful.

CONCLUSION

- 1 First, legal protection for heirs against the unilateral possession of the inheritance estate under Indonesian civil law is provided through both preventive and repressive measures. Preventive protection is established through inheritance law provisions that define the status and rights of heirs, as well as the mechanisms for distributing the estate. Repressive protection is provided

through judicial dispute resolution mechanisms. In principle, the unilateral possession of an inheritance estate cannot be justified if it disregards the rights of other heirs. Such actions can result in material and non-material losses and, provided the requisite elements are met, may be classified as an unlawful act under Article 1365 of the Indonesian Civil Code.

- 2 Second, legal avenues for resolving unilateral possession include both non-litigation and litigation processes. Non-litigation avenues encompass family deliberation and mediation. If these methods prove unsuccessful, heirs may file lawsuits seeking the division of the inheritance, claims regarding unlawful acts, the annulment of rights transfers, and compensation for damages. Resolution through deliberation and mediation should be prioritized, given the strong familial dimension inherent in inheritance disputes.

Suggestion

- 1 First, the public needs to improve their understanding of inheritance law and promptly distribute the estate in a clear manner following the testator's death to prevent unilateral appropriation of assets.
- 2 Second, heirs must maintain transparency regarding the existence and status of the estate and avoid having inheritance-related documents held by a single party without mutual agreement.
- 3 Third, law enforcement officials, notaries, and land officials need to exercise greater diligence in verifying the legality of legal actions concerning inherited assets to ensure other heirs are not disadvantaged.
- 4 Fourth, the resolution of inheritance disputes should prioritize deliberation and mediation over litigation. Mediation rests on a solid legal foundation within Indonesia's civil dispute resolution system and aims for a peaceful and equitable outcome.
- 5 Fifth, the government needs to enhance public awareness regarding inheritance law and legal protection mechanisms for heirs, thereby enabling the public to prevent disputes from arising in the first place.

REFERENCES

BOOK

- Abdulkadir Muhammad, 2020, Indonesian Civil Law, Citra Aditya Bakti, Bandung.
- Boedi Harsono, 2020, Indonesian Agrarian Law, Universitas Trisakti Press, Jakarta.
- Eman Suparman, 2022, Indonesian Inheritance Law from Islamic, Customary, and Civil Code (BW) Perspectives, Refika Aditama, Bandung.
- Freddy Harris and Leny Helena, 2022, The Indonesian Notary, Lintas Cetak Djaja, Jakarta.
- Habib Adjie, 2021, Inheritance, Wills, and Grants Law, Refika Aditama, Bandung.
- Hilman Hadikusuma, 2003, Indonesian Inheritance Law, Citra Aditya Bakti, Bandung.
- Munir Fuady, 2022, Unlawful Acts: A Contemporary Approach, Citra Aditya Bakti, Bandung.
- Peter Mahmud Marzuki, 2021, Legal Research, Kencana, Jakarta.
- Rosa Agustina, 2021, Law of Obligations, Pustaka Larasan, Denpasar.
- Satjipto Rahardjo, 2021, Legal Science, Citra Aditya Bakti, Bandung.
- Soerjono Soekanto, 2007, Introduction to Legal Research, UI Press, Jakarta.
- Soerjono Soekanto and Sri Mamudji, 2001, Normative Legal Research: A Brief Overview, RajaGrafindo Persada, Jakarta.
- Subekti, 2021, Principles of Civil Law, Intermasa, Jakarta.
- Sudikno Mertokusumo, 2005, Indonesian Civil Procedural Law, Liberty, Yogyakarta.
- Sudikno Mertokusumo, 2021, Understanding Law: An Introduction, Cahaya Atma Pustaka, Yogyakarta.
- Takdir Rahmadi, 2021, Dispute Resolution Mediation through a Consensus-Based Approach, RajaGrafindo Persada, Depok.
- Urip Santoso, 2021, Registration and Transfer of Land Rights, Kencana, Jakarta.
- Wirjono Prodjodikoro, 1983, Inheritance Law in Indonesia, Sumur Bandung, Bandung.

JOURNAL

- Dewa Gede Atmadja, 2018, "Legal Certainty in the Resolution of Inheritance Disputes in Indonesia", *Jurnal RechtsVinding*, Vol. 7, No. 3, National Law Development Agency, Jakarta.
- I Gusti Ayu Ketut Rachmi Handayani, 2020, "Protection of Heirs' Civil Rights Regarding Inheritance Property Disputes", *Jurnal Mimbar Hukum*, Vol. 32, No. 2, Faculty of Law, Universitas Gadjah Mada, Yogyakarta.
- I Wayan Agus Vijayantera and Ni Putu Rai Yuliartini, 2020, "Legal Consequences of Unilateral Possession of Inherited Land by One of the Heirs", *Jurnal Kertha Semaya*, Vol. 8, No. 10, Faculty of Law, Universitas Udayana, Denpasar.

Ni Made Puspasutari and I Made Sarjana, 2021, “Legal Protection for Heirs in Disputes Over Possession of Inherited Land”, **Jurnal IUS Kajian Hukum dan Keadilan**, Vol. 9, No. 2, Faculty of Law, Universitas Mataram, Mataram.

Rina Yulianti, 2019, “Legal Protection for Heirs Regarding the Transfer of Rights to Inherited Land Without the Consent of All Heirs”, **Jurnal Notarius**, Vol. 12, No. 1, Master of Notarial Law Study Program, Universitas Diponegoro, Semarang.

LEGISLATION

The 1945 Constitution of the Republic of Indonesia.

Civil Code (Burgerlijk Wetboek voor Indonesië), Staatsblad 1847 Number 23.

Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court.

COURT RULING

Denpasar District Court Decision Number 294/Pdt.G/2017/PN Dps.