



Legal Review Of The Judge's Considerations In The Distribution Of Adopted Children's Inheritance According To Civil Law

(Study Of Supreme Court Decision Number 113 K/PDT/2019)

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Article received: 15 September 2025, Review process: 25 September 2025

Article Accepted: 10 October 2025, Article published: 02 November 2025

ABSTRACT

This study aims to determine the position of adopted children in the distribution of adopted children's inheritance and to determine the judge's considerations in the Supreme Court's decision Number: 113 K/Pdt/2019. This study uses a normative legal research method. The results and discussion of the Panel of Judges in deciding this case were appropriate, rejecting the plaintiffs' claims, because according to Supreme Court Circular Letter No. 6 of 1983 and Government Regulation No. 54 of 2007, the adoption of a child must go through a court decision. In court, a notarial deed is not really necessary. The judge concluded that Tan Kong Lay was not the adopted child of Liong Joeng Tjong and Mrs. Susan Tjien, so he was not entitled to be an heir and was not entitled to a share of his adoptive parents' estate. An adopted child has the right to receive the inheritance of his adoptive parents if a will has been made. In Article 1005 of the Civil Code, an heir may appoint one or more executors in the form of a will, either by will or by private deed or by special notarial deed. The existence of a judge in deciding the case is based on important principles determined by law. The judge must adhere to the principles of justice, legal certainty, and benefit in resolving a case.

Keywords: Judge's Considerations, Status of Adopted Children, Decision

ABSTRAK

Penelitian ini bertujuan untuk mengetahui kedudukan anak angkat dalam pembagian harta warisan anak angkat dan Untuk mengetahui pertimbangan Hakim terhadap putusan Mahkamah Agung Nomor: 113 K/Pdt/2019. Metode penelitian ini menggunakan jenis penelitian hukum normatif. Hasil dan pembahasan Majelis Hakim dalam memutus perkara ini sudah tepat, dengan menolak gugatan para penggugat, karena menurut Surat Edaran Mahkamah Agung No. 6 Tahun 1983 dan Peraturan Pemerintah Nomor 54 Tahun 2007, pengangkatan anak harus melalui penetapan pengadilan. Dalam pengadilan akta notaris tidak begitu diperlukan. Hakim memberi kesimpulan bahwa Tan Kong Lay bukanlah anak angkat dari Liong Joeng Tjong dan Ny. Susan Tjien sehingga tidak berhak menjadi ahli waris dan tidak berhak mendapatkan bagian dari harta peninggalan orang tua angkatnya. Anak angkat memiliki kedudukan dalam menerima harta warisan orang tua angkatnya jika sudah diberikan wasiat. Dalam pasal 1005 KUHPerdara, seorang pewaris boleh mengangkat seorang atau lebih pelaksanaan dalam bentuk surat wasiat, baik dengan surat wasiat maupun akta dibawah tangan ataupun dengan akta notaris khusus. Eskistensi Hakim dalam memutuskan perkara tersebut, didasarkan pada prinsip-prinsip penting yang ditentukan oleh Undang-Undang. Hakim harus berpegang pada prinsip keadilan, kepastian hukum, dan kemanfaatan dalam menyelesaikan suatu perkara.

Kata Kunci: Pertimbangan Hakim, Kedudukan Anak Angkat, Putusan

INTRODUCTION

Marriage is a serious relationship that creates peace and tranquility in life and fosters love, especially within extended family members and in human life in general (Pratiwi et al., 2025). The family is the smallest social unit consisting of a man, a woman, and children living in one household. As stated in Article 28B paragraph (1) of the 1945 Constitution, "Everyone has the right to form a family and continue the lineage through a legal marriage."

Law Number 1 of 1974, Article 1 concerning marriage, states that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. It is important to understand that marriage is expected to produce offspring (children) as the next generation in the family (Yusuf et al., 2024).

Marriage and having children is a dream for families to continue the lineage. There are many reasons why childless men and women adopt, but many families still adopt even if they already have biological children. Adoptive parents often adopt children, aside from obtaining a child of a different gender from their own. Adoption is not a new practice in Indonesia. Adoption is a legal act based on customary law of descent. A person is adopted or placed and accepted into a position, both biologically and sociologically (Gofar et al., 2025).

Article 330 of the Civil Code defines a person as an adult if they are 21 years old. A child under 21 is not considered an adult. A person under the age of 21 is considered an adult. A person who has not reached the legal age limit is legally recognized as a legal subject as determined by the Civil Code (Jahiri et al., 2023).

Adoption is strictly regulated in Indonesian law, particularly regarding the protection and interests of children, based on local customs and applicable laws. Furthermore, the adoption process must not sever the line of descent or eliminate the child's origin or biological parents. Furthermore, prospective adoptive parents must adhere to the same religion as the prospective adopted child. These strong and clear regulations guarantee the protection of adopted children's rights by ensuring their complete dependence on their parents (Fitroni et al., 2025).

Because the Civil Code does not regulate adoption, then regarding adoption. Staatsblad No. 129 of 1917 regulates adoption for Chinese people. Referring to the provisions of Staatsblad No. 129 of 1917. In Article 10 paragraph (1) Staatsblad No. 129 of 1917, the adoption of an adopted child must be carried out with a notarial deed. This adoption gives the adopted child the same status as their own biological child. In Article 12 paragraph (1) Staatsblad No. 129 of 1917, if a husband and wife adopt a son, then the child is considered to have been born from their marriage. It is also stated in Staatsblad No. 129 of 1917 in Article 12 paragraph 2 if the husband after his marriage is dissolved, then adopts a son, then the child is considered to have been born from a marriage that has been dissolved due to divorce or death, so the adopted child is still considered a legitimate child. Therefore, adopted children should have the same inheritance rights from their adoptive parents as biological children born in legal marriage (Fitroni et al., 2025).

Adoption is an act that equates an adopted child with a biological child, both in terms of upbringing and inheritance. This is also explained in Staatsblad No. 129

of 1917. Article 11, concerning the family name of the adopter, also becomes the name of the adopted child. Article 12, equates an adopted child with a legitimate child from the adopter's marriage. Article 13, requires widows who wish to adopt a child to visit the Inheritance Office (Jahri et al., 2024).

In Staatsblad 1917 No. 129, the legal consequences of adoption are that a child legally obtains the name of his adoptive father, making him a child born from the marriage of the adoptive parents. As a result of this adoption, in Article 14 of Staatsblad, the status of the adopted child changes to that of a legitimate child, and the civil relationship with his biological parents is severed. Therefore, automatically the rights and obligations of an adopted child are the same as a biological child, must care for and respect parents like biological parents, and adopted children receive the same rights as biological children of their adoptive parents. Adoption as regulated in the Civil Code (BW) only applies to adoptions made outside of marriage. This is stated in Book I of the Civil Code, Chapter XII, Part III, Article 280, which states that "recognition of a child born out of wedlock creates a civil relationship between the child and its father and mother." Article 281 also states that recognition of a child born out of wedlock can be achieved through an authentic deed, if a birth certificate has not yet been issued, or at the time of the marriage. Recognition can also be achieved through a deed prepared by a civil registry officer and registered in the birth register according to the date of signing. However, adoption, as currently practiced in society and the judicial system, is not limited to adoptions made outside of marriage but encompasses adoption in a broader sense (Sintha Andiningtyas Kirani, Mohammad Hifni, Galuh Sulyana, Dani Darmawan, 2024).

Regarding adoptions in Indonesia, there are currently no regulations concerning adoption laws. The only requirement is to adhere to the Supreme Court Circular Letter, which explains the basis and guidelines for judges in making decisions or establishing decisions in adoption cases. This refinement demonstrates legal certainty in the adoption process, so that adoptions carried out only through customary methods, sometimes only in the presence of the parents, witnessed by several local traditional leaders, with the aim of ensuring the adoption can be carried out and also ensuring legal certainty (Maulana et al., 2025).

Supreme Court Circular Letter No. 2 of 1979 concerning adoption by a civil servant, for indigenous Indonesians. This regulation stipulates that all legal circumstances that may affect a person's legal status must be recorded in the relevant location. In cases of adoption, after the Panel of Judges in the Court has issued a decision, the child's birth certificate must contain information about the legally adopted child, including the names of the adoptive parents, as determined by the Panel of Judges. This was further refined in Supreme Court Circular Letter No. 6 of 1983, to ensure legal certainty, which can only be obtained after obtaining a court decision (Kase et al., 2024).

Based on Article 1 paragraph (1) of Government Regulation Number 54 of 2007 concerning the Implementation of Adoption, which states: "Adoption is a legal act that transfers a child from the jurisdiction of the parents, legal guardian, or other person responsible for the care, education, and upbringing of the child, into

the family environment of the adoptive parents, based on a court decision or determination."

Adoption through a court order was previously mentioned in the definition of child protection in Article 1, number 9 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states: "An adopted child is a child whose rights are transferred from the family jurisdiction of the parents, legal guardian, or other person responsible for the care, education, and upbringing of the child to the family jurisdiction of the adoptive parents based on a court decision or ruling." The court's decision on adoption serves as one of the requirements to provide certainty regarding the status of adopted children and their adoptive parents (Kolilah, 2019).

A legally recognized adopted child will give rise to rights and obligations between the adopted child and the adoptive parents and also have consequences for the adoptive parents' inheritance. Adopted children are not only taken from their biological parents, but are then cared for and raised by their adoptive parents. This can have consequences for the equal rights and obligations of adopted children, including the distribution of their adoptive parents' inheritance upon their death. The Great Indonesian Dictionary defines an heir as a person entitled to receive inheritance from a deceased person. Inheritance law is part of family law within Civil Law. Inheritance law always concerns human life because everyone will inevitably die. When a person dies, their rights and obligations immediately transfer to their heirs, who are held by the surviving heirs (the principle "le mort saisit le vif"). Civil law does not differentiate between sons and daughters, husbands and wives. They have equal rights, and each heir has the right to claim an equal share of the inheritance according to their rights. There are four categories in the distribution of inheritance under civil law. These categories indicate the order of priority of heirs. In other words, if there is a first category, those below it cannot inherit the inheritance. These categories are: (1) Category I consists of the surviving husband or wife, legitimate children, and their descendants. (2) Category II consists of the father, mother, siblings, and siblings' descendants. (3) Group III consists of grandparents, grandparents, and siblings in the ascending line. (4) Group III consists of uncles, aunts, and cousins.

Inheritance is a crucial issue, and it raises various problems. For many people, relationships break down due to disputes over inheritance rights. In fact, inheritance issues are clearly and comprehensively regulated by law, religion, and the government. Inheritance laws in Indonesia vary depending on the legal status of the heirs. Inheritance disputes generally involve two issues: who the heirs are and how much inheritance each heir will inherit. In reality, inheritance disputes will never be resolved permanently due to human greed. Inheritance disputes can be resolved in two ways: out-of-court settlement or through court proceedings, where family members sue other family members. To avoid fracturing family relationships, it's best to first consider which method the heirs will use to resolve inheritance issues that arise during the distribution of inheritance. According to the provisions above, although the Civil Code does not specifically regulate the adoption of adopted children, it does provide for their ability to inherit through a

will. Article 1005 of the Civil Code states, "An heir may appoint one or more executors in the form of a will, either through a will, a private deed, or a special notarial deed."

A common problem in society concerns the distribution of inheritance upon the death of a parent. This is the case of a married couple, the late Liong Joeng Tjong and Mrs. Tjien Soey Jin, also known as Susan Tjien, who had a child named Mrs. Linawati Liong, also known as Liong Sin Lian. On June 3, 1969, the late Liong Joeng Tjong and Mrs. Tjien Soey Jin adopted the child before Notary Riono Roeslam, and the child was handed over directly by her biological father, Joe Kok Tjong, under deed No. 2 dated June 3, 1969, since then the adopted child named the late Tan Kong Lay alias Liong Sing Cung alias Soehartono Widjaja was cared for, educated and schooled by his two adoptive parents (Pradoto, 2017).

On January 28, 1987, the adopted son of the late Liong Joeng Tjong, Tan Kong Lay alias Liong Sin Cung, married Mrs. Lioe Miauw Lan alias Nyanyay based on marriage certificate No. 1/1987 issued by the Civil Registry Office of Ciamis Regency II. From this marriage, they had four children. However, several years later, without the knowledge of the late Tan Kong Lay, his adoptive parents made a deed of inheritance rights with No. 3/X/1988 dated October 26, 1988 before notary Liana Nugraha S.H. which stated that his biological son and wife of his adoptive father were the sole heirs of the late Liong Joeng Tjong and there were no other heirs.

Learning this after Tan Kong Lay's death on March 17, 2017, Mrs. Lioe Miauw Lan alias Nyanyay, his wife and children from the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja, sued Mrs. Tjien Soey Jin to the Tasikmalaya District Court on December 4, 2017, intending to sue the certificate of inheritance made by her husband's adoptive parents to be canceled by the Panel of Judges which was considered detrimental to the late Tan Kong Lay alias Liong Sin Cung as a child adopted by his two adoptive parents. Because the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja was not included in the certificate, which should have been included as the heir of his two adoptive parents based on deed No. 2 dated June 3, 1969 and also a letter from the Tasikmalaya District Court.

METHODS

This research employs a normative legal approach, focusing on the analysis and examination of primary legal materials derived from legislation and official documents, alongside secondary materials such as textbooks by legal experts, legal journals, scholarly opinions, and court decisions relevant to the topic. Sugiyono (2018) defines the research method as a scientific process for obtaining valid data aimed at discovering, developing, and proving specific knowledge to understand, solve, and anticipate problems. The data sources used consist of secondary data, including primary, secondary, and tertiary legal materials. Primary materials, which hold authoritative value, include the Civil Code, Law No. 4 of 2004 on Judicial Power, Government Regulation No. 54 of 2007 on Adoption, Law No. 23 of 2002 on Child Protection, Law No. 35 of 2014 on Child Welfare, and Staatsblad No.

129 of 1917 on Adoption. Secondary materials, encompassing non-official publications such as books, journals, and analyses of court decisions, serve as supporting references that enrich the interpretation of legal norms and theories in this stud.

RESULTS AND DISCUSSION

How to Legally Analyze Judges' Considerations in Deciding on Supreme Court Decision Number: 113K/Pdt/2019

1. Overview of Judges' Considerations in Decisions

a. Definition of Judges' Considerations

In Indonesia, the principle of judicial independence is fully guaranteed in Law Number 48 of 2009 concerning Judicial Power. Judges' considerations are one of the most important aspects in determining the value of a court decision, which encompasses justice and legal certainty, but also provides benefits for the parties involved. Therefore, these considerations must be addressed comprehensively, properly, and wisely. If the judges' considerations are not comprehensively, properly, and wisely conducted, the Supreme Court will overturn the decision based on those considerations.

Judges in examining a case also require evidence, the results of which will be used as considerations in deciding the case. Evidence is the most crucial stage in the trial examination. The purpose of evidence is to provide certainty that an event or fact presented actually occurred, in order to assist the judge in making a fair, correct, and impartial decision. The judge cannot render a decision until it is clear to him or her that the event or fact actually occurred, that is, its truth has been proven, so that a legal relationship between the parties is evident.

b. Basis for the Judge's Considerations

According to Article 24 paragraph 1 of the 1945 Constitution, the judicial power is an independent power to administer justice to uphold law and justice. Judicial power is an independent power in this provision, meaning that the judge's decisions are free from the involvement of state officials.

Furthermore, Article 1 of Law Number 4 of 2004 concerning Judicial Power also states that judicial power is an independent state power to administer justice to uphold law and justice based on Pancasila, for the sake of the implementation of the laws of the Republic of Indonesia. Therefore, the court does not discriminate in its adjudication. Courts assist justice seekers and strive to overcome all obstacles and barriers to achieve a fair, clean, objective, and professional trial.

The judge's deliberations based on the trial court case examination must include a mediation process, reading of the lawsuit, the plaintiff's response (reply), the defendant's response (duplicative), the plaintiff's and defendant's evidentiary efforts, and a conclusion and a verdict based on the

deliberation of the panel of judges. Throughout the trial process, evidence is paramount because the judge cannot make a decision without it.

According to Sudikno Mertokusumo, "Proving means logically considering certain events that are considered true in procedural law. Proof has a juridical meaning. In science, logical and absolute proof is possible, applicable to everyone and precludes all possibility of opposing evidence."

c. The Meaning of a Court Decision

Once the case examination is complete, the panel of judges, acting as their judges, will hold a deliberation to reach a decision. The judge must render a decision containing the resolution of the disputed case. He or she is obligated to issue a decision on all aspects of the lawsuit. Civil procedural law is generally written with the aim of resolving or ending a case.

A quality decision reflects the judge's skill and ability in deciding a case. The authority to decide a case rests with the judge, who holds judicial power, whose independence is guaranteed by the 1945 Constitution. In the exercise of judicial power, the decision and the judge are inseparable. Because a court decision is the product of the judge, a quality decision reflects a quality judge.

According to Lilik Mulyadi, SH., M.H., a judge's decision can be defined in detail as:

- a) A decision pronounced in a civil trial that is open to the public and therefore legally binding.
- b) A decision rendered after going through the general process and procedures of civil procedural law.
- c) A judgment is made in written form so that the judge's decision can be delivered to the parties to the case, sent to the Supreme Court of the Republic of Indonesia if the party concerned files an appeal or cassation, used as publication material, and as an archive attached to the case file.
- d) The judge's decision aims to resolve or end a case.

Essentially, a person who feels their rights have been violated by someone else files a lawsuit with the aim of having the case resolved or ended by the judge. The means or means of resolving a case is through a "judge's decision."

Once the case examination is complete, the panel of judges, in their capacity, holds a deliberation to reach a decision. The judge renders a decision containing the resolution of the disputed case. He or she is obligated to issue a decision on all aspects of the lawsuit. Civil procedural law is generally written for the purpose of resolving or ending a case. In resolving a case, a panel of judges cannot simply issue a decision. They must consider the judge's considerations during the trial, including mediation, the reading of the lawsuit, the plaintiff's response (reply), the defendant's response (duplicative), the plaintiff's and defendant's evidentiary efforts, and a conclusion, ultimately reaching a verdict based on the panel of judges' deliberations. Throughout the entire trial process, evidence is paramount, as judges cannot make decisions without it.

A quality decision reflects the judge's skill and ability to decide a case. The authority to decide a case rests with the judge, who holds judicial power, whose independence is guaranteed by the 1945 Constitution. In the exercise of judicial power, the decision and the judge are inseparable. Because court decisions are the product of judges, a quality decision reflects a quality judge.

The judge's reasoning is at the heart of any decision; justice is the foundation a judge must uphold. The criteria for a just decision are: correct, objective, rational, and concrete. Based on these criteria, a litigant or recipient of a decision can understand their rights and errors.

2. Case Position

This case concerns the distribution of inheritance in a Chinese family. In this case, the plaintiffs are the wife and children of the late Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, who was adopted by the late Liong Joeng Tjong and Mrs. Tjien Soey Jin alias Susan Tjen (Defendant I) in the case of the adoption of the child has been stated in Notarial deed No. 2 dated June 3, 1969 made before Notary Riono Roeslam and declared as the legal heir, according to applicable law Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja has the same status as a biological child as regulated in stbld 1917 No. 129 Article 12 (1).

However, on October 26, 1988 Mrs. Tjien Soey Jin alias Susan Tjen (Defendant I) and Mrs. Lianawati Liong alias Liong Sin Lia (Defendant II) made a deed of inheritance rights made before notary Liana Nugraha, S.H (Defendant III) with deed number: 3/X/1988, dated October 26, 1988. Which in essence states that Mrs. Tjien Soey Jin, also known as Susan Tjen (Defendant I) and Mrs. Lianawati Liong, also known as Liong Sin Lia (Defendant II) are the sole heirs of the late Liong Joeng Tjong (as the testator) and are entitled to all of the testator's inheritance, with no other heirs.

Learning of this, in 2017, Mrs. Lioe Miauw Lan alias Nyanyay (Plaintiff I) along with his four children named Handy Tan Suhartono Wijaya (Plaintiff II), Halim Suhartono Wijaya Tan (Plaintiff III), Tommy Suhartono Wijaya Tan (Plaintiff IV) and Jimmy Suhartono Wijaya Tan (Plaintiff V) filed a lawsuit to the Tasikmalaya District Court, where the plaintiffs as heirs of the late Tan Kong Lay alias Liong Sing Cung alias Soehartono Widjaja sued the deed of inheritance statement made by Notary Liana Nugraha, S.H (Defendant III) to be canceled by the Panel of Judges which was considered invalid and detrimental to the late Tan Kong Lay who should have been included as the heir of Liong Joeng Tjong because he was the adopted son of Liong Joeng Tjong and Mrs. Tjien Soey Jin alias Susan Tjen (Defendant I) based on notarial deed No. 2 dated June 3, 1969 made before notary Riono Roeslam.

However, Mrs. Tjien Soey Jin, also known as Susan Tjen (Defendant I), denied that she and her husband, Liong Joeng Tjong, did not adopt Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, and had no intention of adopting him. Mrs. Tjien Soey Jin, also known as Susan Tjen (Defendant I), and Liong Joeng Tjong only cared for, educated, and educated

Tan Kong Lay, so that he could exercise his rights as a child. Mrs. Tjien Soey Jin, also known as Susan Tjien (Defendant I), stated that the deed they executed was a deed of transfer of the child, the substance of which was for the purpose of care, education, and schooling, not for the purpose of adopting Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja.

The plaintiff in this case is the wife and children of the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja who was adopted as a child on Tuesday, June 3, 1969. The lawsuit of the wife and children of the late Tan Kong Lay alias Liong Sing Cung alias Soehartono Widjaja so that the deceased be declared the heir of Liong Joeng Tjong, as such is a subjective right of the late Tan Kong Lay alias Liong Sin Cung, which does not automatically transfer the heir to the wife and children of the deceased. Because inheritance in other words, the substance of the claim to become an heir can only be submitted by the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja during his lifetime. The claim to be an heir and the claim to be an heir are two different things. In this case, Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, was not or was not an heir of Liong Joeng Tjong. Therefore, the claim to be an heir in this case does not transfer to the plaintiffs, even though they are the heirs of Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja.

As is clear from the lawsuit filed by the wife and children of the late Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, the reasons and everything requested by the plaintiffs are for the late Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, the plaintiffs' husband and father to become an adopted child and therefore an heir of Liong Joeng Tjong. This claim is based on Deed No. 2 dated June 3, 1969 concerning the statement of the Surrender of Children made by Notary Riono Roeslam in Tasikmalaya.

Regarding the reasons and all matters requested by the plaintiffs in the lawsuit, to clarify the issues in this case, it is necessary to include Notary Riono Roeslam as a party in this case. The plaintiffs did not include the Notary as a party, therefore, the plaintiffs' lawsuit is incomplete or lacking a party.

1. Judge's Considerations in Deciding the Case Supreme Court Decision Number: 113K/Pdt/2019

In this case, the judge rendered the decision based, among other things, on the available evidence, supported by the judge's conviction based on conscience and wisdom, to decide a civil case. In this case, the panel of judges examining and adjudicating the case rendered the decision after reviewing the legal facts presented at trial.

Regarding the remaining evidence presented by the Parties that has not been considered by the Panel of Judges, although still relevant to this case, the Panel of Judges nevertheless considers that because the issues in the main case have been answered by the evidence considered above, the remaining evidence will not be considered further by the Panel of Judges.

The Judges concluded that the deed dated June 3, 1969 No. 2 is a deed of surrender of the child, not a deed of adoption. Among other things, the deed does not contain any express wording stating that the surrender of the child constitutes an adoption. It clearly stipulates that the child is to be cared for, educated, and schooled, and does not intend to adopt the late Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja.

Mrs. Tjien Soey Jin and Mrs. Lianawati, originally Liong Sin Lian, firmly rejected the argument of the family of the late Tan Kong Lay who stated that the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja was an adopted child and became the heir of the late Liong Joeng Tjong. Regarding the explanation of the inheritance law regarding deed No. 2 dated June 3, 1969, which stated that the deed was in substance a deed of adoption to care for the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja during his childhood, with the deed which had the right to child care. In fact, the trial was correct and proper in granting the Plaintiffs' lawsuit in part because the Plaintiffs could only prove that they were the legal heirs of the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja, while it was not proven that the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja was adopted by the late Liong Joeng Tjong and Mrs. Tjien Soey Jin alias Susan Tjien. Therefore, the Panel of Judges correctly issued its decision, namely rejecting the Plaintiffs' lawsuit and not having the right to replace the late Tan Kong Lay alias Liong Sin Cung as heir.

The Judge concluded that Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja was not the adopted son of Liong Joeng Tjong and Mrs. Tjien Soey Jin alias Susan Tjien (Defendant I), therefore he was not entitled to be an heir and was not entitled to receive a share of Liong Joeng Tjong's inheritance. The judge also rejected the Plaintiffs' lawsuit regarding the annulment of the deed of information from Notary Liana Nugraha, S.H. (Defendant III) No. 3/X/1988, dated October 26, 1988.

Based on the judge's considerations, the West Java High Court's decision in this case does not conflict with the law and/or statutes. Therefore, the cassation petition filed by the Applicants, Mrs. Lioe Miauw Lan, also known as Nyanyay, and her children, must be rejected.

Therefore, the Applicants' cassation petition is rejected, and the Applicants, as the losing party, are ordered to pay the court costs at this cassation level. Considering Law Number 48 of 2009 concerning Judicial Power, Law Number 14 of 1985 concerning the Supreme Court, as amended and supplemented by Law Number 5 of 2004 and the second amendment by Law Number 3 of 2009, and other relevant laws and regulations;

The Judge's Decision is as follows:

- a. Rejecting the cassation appeal from the Appellants: 1. Mrs. Lioe miauw lan (nyanyay), 2. Handy tan suhartono wijaya, 3. Halim suhartono wijaya tan, 4. Tommy suhartono wijaya tan, and 5. Jimmy suhartono wijaya tan.
- b. Ordering the Appellants to pay court costs at this cassation level in the amount of Rp500,000.00 (five hundred thousand rupiah).

This was decided in the deliberation meeting of the Panel of Judges on Wednesday, February 20, 2019.

2. The author's analysis of the judges' considerations in Supreme Court Decision No. 113K/Pdt/2019

According to the author, the panel of judges' considerations in deciding this case were that Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, could be considered an adopted child because he lived and was cared for by Liong Joeng Tjong and Mrs. Tjien Soey Jin, also known as Susan Tjien.

Legal adoption must be carried out through a notarial deed, which gives the child the right to inherit the inheritance of their adoptive parents. The provisions for implementing adoptions, which must be carried out before a notary, contain legal certainty for the child, specifically to protect the adopted child's rights related to the legal provisions of the adoption deed.

Furthermore, the author is of the opinion that the late Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja, was the legitimate adopted child of the late Liong Joeng Tjong and Mrs. Tjien Soey Jin, also known as Susan Tjen, was sued for adoption because the requirement for adoption was that the person must be of the same religion and also based on the 1917 Staatsblad No. 129, which stipulates that for ethnic Chinese, adoption is valid if conducted before a notary.

However, the panel of judges, in examining the case, referred to the provisions of Staatsblad No. 129 of 1917, which stipulate that adoption must be proven by a deed of adoption drawn up by a notary. On the other hand, the plaintiffs were unable to provide evidence of the deed of adoption referred to by the Panel of Judges. Furthermore, Mrs. Tjien Soey Jin, also known as Susan Tjien, denied and denied that she and her husband, Liong Joeng Tjong, had adopted Tan Kong Lay, also known as Liong Sin Cung, also known as Soehartono Widjaja. Therefore, the judge made a decision based on the evidence presented to him. In accordance with the provisions of Article 1905 of the Burgerlijk Wetboek (BW), which states that a witness's testimony without other evidence in court cannot be trusted. This means that Mrs. Tjien's testimony was not credible. Tjien Soey Jin alias Susan Tjien is supported by authentic deed evidence which is perfect evidence so that it is sufficient for the judge to decide that Tan Kong Lay alias Liong Sing Cung alias Soehartono Widjaja is not the adopted son of Liong Joeng Tjong and Mrs. Tjien Soey Jin.

Therefore, due to the failure to prove that Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja is a legitimate adopted son and therefore has the right to the inheritance left by Liong Joeng Tjong who is his foster parent, the certificate of inheritance made where the contents of the certificate of inheritance state that Mrs. Tjien Soey Jin and Mrs. Lianawati Liong alias Liong Sin Lian are the sole heirs of Liong Joeng Tjong is valid and does not conflict with applicable laws or provisions because it does not violate anyone's rights or there are other heirs besides those stated in the letter.

Based on this explanation, Tan Kong Lay alias Liong Sing Cung alias Soehartono Widjaja is not entitled to Liong Joeng Tjong's inheritance because his position is only that of a foster child based on the deed of transfer of child No. 2 dated June 3, 1969, and not as an adopted child.

Foster children are not entitled to inheritance rights because their status differs from that of adopted children. Foster children are considered a third party, not included in the category of heirs entitled to inheritance under the law. If they receive inheritance rights, it is not because of their status as an heir entitled to the inheritance, but because of a will or testament from the testator before the testator's death. If an adoption has indeed occurred, the child is separated from both biological parents and is considered a child of equal status to the biological children of their adoptive parents, thus having the same rights. In terms of inheritance, adopted children also receive inheritance from their adoptive parents, as regulated in Staatsblad No. 129 of 1917. Therefore, based on the judge's considerations, the adoption deed was rejected as evidence in the trial because the judge believed that the adoption deed was invalid and had no legal force, and did not comply with applicable provisions. In the 1917 State Gazette No. 129, this regulation serves as the basis for adoption for those of ethnic Chinese descent.

The Position of Adopted Children in the Distribution of Inheritance According to Civil Law Based on Supreme Court Decision Number: 113 K/Pdt/2019

1. The Position of Adopted Children in the Distribution of Inheritance According to Civil Law

Adopted children retain the right to inherit or inherit from their adoptive parents according to the Civil Code. Essentially, the rules governing the inheritance of assets to adopted children are based on the inheritance laws used by the adoptive parents. Parents in this position are obligated to fulfill their responsibilities as parents, ensuring that their adopted children are not neglected upon their death. Therefore, in general, Article 1005 stipulates that adopted children can inherit through a will. These provisions are explained in Article 875 of the Civil Code, which explains a will intended for a person appointed by the person leaving or giving the inheritance to receive the inheritance in full or only a portion of the assets left behind. An adopted child is entitled to receive one-third of their adoptive parent's inheritance if a will has been made. Article 954 of the Civil Code states that the appointment of an heir in the form of a will is the process of giving one or more persons the assets left behind upon their death, either in full or in part, such as one-half or one-third.

According to the Civil Code, when making a will, there are limits on the amount of an inheritance to be distributed to the heirs, commonly referred to as the Legitime Portie. This provision is stated in Articles 913 to 916 of the Civil Code. Legitime Portie, or what is called the absolute share, can be defined as the portion of the inheritance that must be received by the lineal heirs, as the rule that the testator is not permitted to stipulate gifts in the form of a will; this article

applies to blood children. Article 931 of the Civil Code further stipulates that there are three ways to make a will:

- a. A will written in one's own hand (holographic deed).
- b. An open will.
- c. A sealed will.

The three forms of testament mentioned above are covered in Article 932. A holographic will must be entirely handwritten and signed by the testator, and deposited with a notary for safekeeping. Article 938 states that an open will must be made before a notary and in the presence of two witnesses. Article 940 of the Civil Code states that the testator must submit a sealed and sealed will to a notary in the presence of four witnesses. All three forms of testament require the intervention of a notary.

Therefore, in inheritance law, adopted children are also called heirs of their adoptive parents, with the limitation that they are only heirs of the part that was willed. This condition protects children's rights and guarantees children's welfare, because adopted children have the same inheritance rights as biological children. The right to adopt a child can be seen from the child's relationship with his adoptive parents, not only in providing support and maintenance but also in the inheritance rights of his adoptive parents.

The Existence of Judges in Deciding Court Decision Cases Agung Number: 113K/Pdt/2019

The judge's presence in deciding the case is based on important principles determined by law. Judges must adhere to the principles of justice, legal certainty and expediency in resolving a case. Judges in examining a case also need evidence, where the results of that evidence will be used as material for consideration in deciding the case. Evidence is the most important stage in examination at trial.

The purpose of evidence is to provide certainty that a presented event or fact actually occurred, in order to assist the judge in making a fair, correct, and impartial decision. A judge cannot render a decision until it is clear to him or her that the event or fact actually occurred, that is, its truth has been proven, thus establishing a legal relationship between the parties. Therefore, the court does not discriminate in its adjudication. The court assists those seeking justice and strives to overcome all obstacles and barriers to achieve a fair, clean, objective, and professional trial.

A quality decision reflects the judge's skill and ability in deciding a case. The authority to decide a case rests with the judge, as the holder of judicial power, whose independence is guaranteed by the 1945 Constitution. In this case, the judge decides the case by referring to applicable legal principles and ensuring that the judge's decision is impartial to either party. The judge must also ensure that the decision can be effectively enforced, thereby benefiting the parties involved and the public at large.

CONCLUSION

Based on the results of the study, the author concludes that a notary's adoption deed, which initially served as primary evidence under Staatsblad No. 129 of 1917 to certify adoption, lost its binding strength following the issuance of Supreme Court Circular Letter No. 6 of 1983, which, along with Government Regulation No. 54 of 2007, mandates that adoption must be determined by a court order. Therefore, the panel of judges appropriately rejected the plaintiffs' lawsuit, as adoption procedures require judicial determination rather than reliance on a notarial deed, since the necessary documents are typically private statements signed on stamped paper by the biological parents. In this particular case, the late Tan Kong Lay alias Liong Sin Cung alias Soehartono Widjaja was the foster child of Liong Joeng Tjong and Mrs. Tjien Soey Jin alias Susan Tjien. However, the child's surrender lacked a legal basis for adoption as stipulated in Staatsblad No. 129 of 1917 for the Chinese group, as it was merely supported by an agreement between the parties recorded in the Deed of Child Surrender made before Notary Riono Roeslam No. 2 dated June 3, 1969.

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