Legal Protection of the Rights of Heirs to The Grantor that Infringes the Heir's Grant Legitimate Portion

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DOI: https://doi.org/10.47772/IJRISS.2026.101000403

Received: 18 October 2026; Accepted: 23 October 2026; Published: 03 November 2026

ABSTRACT

A grant is a legal act that a person performs while he is still alive to give part or all of his property to another party for free. In practice, grants often cause legal problems if done excessively so as to reduce or eliminate the rights of legitimate heirs who are protected by the provisions of legitieme portie in the Civil Code. This condition causes conflicts and disputes among heirs because the absolute rights that should be received under the law are violated due to the grantor's actions during his lifetime. This study aims to analyze the regulation and implementation of legal protection for the rights of heirs over inheritance grants that violate the provisions of legitieme portie according to the Civil Code, analyze the legal consequences of grants that are proven to violate the heirs' legitieme portie rights, and analyze legal remedies that can be taken by heirs to recover legitimate portie rights that were violated due to grants made by the grantor. The research method used is normative legal research with a statutory approach, a conceptual approach, and a case approach based on three Supreme Court decisions (Nos. 841 K/Pdt/2003, 2954 K/Pdt/2017, and 2892 K/Pdt/2021). The data used is in the form of secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials that are analyzed qualitatively to obtain conclusions that are in accordance with the research problem. The results of the study show that the Civil Code provides legal protection for legitimate heirs through the provisions of legitieme portie that limit the grantor's freedom to grant his property. Grants that are proven to violate legitieme portie are not null and void, but can be requested for reduction (inkorting) through a court decision until the heirs' rights are met. Aggrieved heirs can take legal action in the form of a civil lawsuit to demand the restoration of legitieme portie rights based on the provisions of the Civil Code. The case analysis shows that judicial practice is not uniform: courts have both reduced gifts proportionally and annulled gift deeds in their entirety, which weakens legal certainty. The protection of good-faith third parties under Articles 928–929 of the Civil Code must be read together with the land registration rules, and a step-by-step calculation under Articles 921 and 924 is provided to show how inkorting works. The study is limited to inheritance governed by the Civil Code; gifts made by Muslims are governed by the Compilation of Islamic Law. Based on the results of the research, it is recommended that the public understand the legal limitations in granting grants by paying attention to the rights of legitimate heirs, notaries and related officials more carefully in making grant deeds so as not to violate legitieme portie, and it is necessary to increase understanding and consistent law enforcement by law enforcement officials to provide legal protection and certainty for the rights of heirs. In particular, this study proposes an Inheritance Asset and Heir Disclosure Checklist to be applied by Notaries and PPAT when drafting deeds of gift.

Keywords: Grant, Heirs, Legitieme Portie, Legal Protection, Civil Inheritance Law, Inkorting, Notary.

1. INTRODUCTION

Inheritance law in the Indonesian civil law system is part of family law that has an important role in regulating the transfer of a person's rights and obligations over his or her property after death. The Civil Code regulates inheritance law in detail, including regarding the freedom of the heir to transfer his or her assets during life

through grants. However, this freedom is not absolute because it is limited by the provision of legitieme portie, which is an absolute share that must still be given to certain heirs as a form of legal protection for their rights.1

The provisions regarding legitieme portie as stipulated in Article 913 of the Civil Code affirm that heirs in a straight line down and up have absolute rights to a certain part of the testator's estate that cannot be eliminated by grants or wills. This arrangement shows that civil inheritance law does not solely give full flexibility to the heirs, but also places the principles of justice and family protection as fundamental values.2 Thus, grants made by the testator must basically pay attention to and must not violate the absolute rights of the heirs.

In practice, the implementation of the legitieme portie provisions often does not go as it should. Many heirs during their lives give all or most of their assets to certain parties, either to one of the children, certain families, or third parties, without taking into account the absolute rights of other heirs. This condition causes violations of legitieme portie and has the potential to cause legal losses for the heirs who should be protected by law.3 This problem is even more complex when the grant is stated in the form of an authentic deed made by a Notary or Land Deed Official (PPAT). Juridically, an authentic deed has perfect evidentiary power, so it is often perceived as if the grant is completely valid and inviolable. In fact, normatively, the validity of a grant deed does not immediately eliminate the possibility of inkorting or reduction of the grant if it is proven to violate the legitieme portie.4

From a normative juridical point of view, there are fundamental problems related to the effectiveness of legal protection for heirs. The Civil Code does provide a protection mechanism through inkorting lawsuits as stipulated in Articles 920 to 929 of the Civil Code. However, this mechanism is passive and can only be implemented if the heirs actively file a lawsuit with the court. This poses a normative problem because legal protection, which should be preventive, actually depends on the initiative and courage of the heirs. In addition, there is a conflict of norms between the principle of freedom of contract and will and the principle of protection of heirs through legitieme portie. On the one hand, the testator has the right to freely regulate and transfer his property; on the other hand, the law expressly restricts this freedom in order to guarantee the absolute rights of the heirs. This conflict often creates legal uncertainty, especially when the grant has been implemented and the object of the grant has been transferred to a third party.

This study focuses on three main issues: (1) How is the arrangement and implementation of legal protection for the rights of heirs over inherited grants that violate the provisions of legitieme portie according to the Civil Code? (2) What are the legal consequences for grants made by the grantor if proven to have violated the heir's legitieme portie rights from a civil law perspective? (3) What are the legal remedies that can be taken by heirs to recover the rights of legitieme portie that have been violated due to grants made by the grantor?

This article is limited to inheritance governed by the Civil Code. For Muslim citizens, lifetime gifts (hibah) are regulated by the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which caps a gift at one-third of the grantor's property (Article 210 paragraph (1) KHI) and provides that a gift from a parent to a child may be counted as inheritance (Article 211 KHI); disputes among Muslims over hibah fall within the jurisdiction of the Religious Courts (Article 49 of Law No. 3 of 2006). The Civil Code, in contrast, sets no fixed ceiling on a lifetime gift but protects the reserved portion ex post through inkorting at the opening of the inheritance (Article 920).

2. THEORETICAL OVERVIEW

Theory of Justice

The theory of justice is one of the fundamental theories in law that has an important position in analyzing the relationship between rights, obligations, and protection of the legal interests of each individual. Aristotle divided justice into distributive justice and corrective justice.5 In relation to grants that violate legitieme portie, distributive justice is reflected in the provisions of the law that regulate the proportional distribution of absolute shares to certain heirs. Meanwhile, corrective justice is seen in the legal mechanism in the form of a reduction in grants (inkorting) that can be proposed by the heirs if the grants given by the heirs exceed the permissible limit.

John Rawls stated that justice must be built on the basis of equal freedom and protection of those who are socially and economically weaker. (Fairness).6 This theory is particularly relevant because legitimate heirs (legitimarissen) are those who legally have a right to the testator's estate, but are often in a weak position when the testator during his lifetime transfers most of his or her property through grants to other parties.

Theory of Legal Certainty

The theory of legal certainty places law as an instrument to create order and guarantee protection of the rights of legal subjects.7 According to Hans Kelsen, law must be understood as a system of norms that is arranged in a hierarchical manner and is binding on everyone, thus creating predictability.8 Gustav Radbruch also emphasized that legal certainty is one of the three basic values of law besides justice and utility.9

In the practice of civil inheritance law, legal certainty is often disturbed by the ambiguity of the law of grants that violate legitieme portie. The Civil Code does not explicitly state that grants that violate legitieme portie are null and void, but rather provide a mechanism for deduction (inkorting). The existence of legal certainty is indispensable to provide consistent guidelines for judges, deed-making officials (notaries), and parties to the dispute.

Theory of Legal Protection

The theory of legal protection places law as a means to protect the rights and interests of legal subjects from arbitrary actions.10 Philipus M. Hadjon divides legal protection into two forms: preventive legal protection and repressive legal protection.11 Preventive legal protection aims to prevent disputes through normative limits and supervision (such as the role of Notaries/PPAT in making deeds), while repressive legal protection aims to resolve disputes and restore violated rights (such as the mechanism of inkorting lawsuits in court).12

3. RESEARCH METHODS

The type of research used is normative legal research, which is research that examines law as a norm or rule that applies in society.13 The approach used includes:

1. Statute Approach: Examining the legal provisions related to inheritance, grants, and legitieme portie in the Civil Code.14

2. Conceptual Approach: Examines legal doctrines and concepts regarding justice, legal certainty, legal protection, and legitimacy.15

3. Case Approach: Analyzes three Supreme Court (Mahkamah Agung) decisions on lifetime gifts that infringe the legitieme portie, namely Decision No. 841 K/Pdt/2003, No. 2954 K/Pdt/2017, and No. 2892 K/Pdt/2021. They were selected purposively because they concern gifts made during the grantor's lifetime, involve different outcomes (proportional reduction versus annulment of the deed), and are discussed in published scholarly commentary. The decisions are analyzed through the courts' reasoning on the calculation of the reserved portion, the legal status of the gift deed, and the remedy granted.16

The data used are secondary data in the form of primary legal materials (Civil Code, Law on Notary Positions, Government Regulation No. 24 of 1997 on Land Registration, the Compilation of Islamic Law, and Supreme Court decisions), secondary legal materials (law books, scientific journals, research results), and tertiary legal materials (legal dictionaries). Data collection is carried out through library research. Data analysis is carried out in a normative qualitative manner with deductive reasoning.17

4. RESULTS AND DISCUSSION

Regulation and Implementation of Legal Protection of Heirs' Rights of Grants That Violate Legitieme Portie

The legal protection arrangement for legitimate heirs is explicitly regulated in Article 913 of the Civil Code which defines legitieme portie as part of the inheritance that must be given to the heirs in a straight line according

to the law, against which the deceased has no right to assign anything to it, either as a grant between living persons or as a will.

The amount of the legitieme portie is regulated in Articles 914 to 916 of the Civil Code based on the number of children or lineages:

1. If the decedent leaves 1 legal child, then the legitieme portie is 1/2 of the share that should be received according to the law of inheritance ab intestato.

2. If the decedent leaves 2 legal children, then the legitieme portie is 2/3 of the ab intestato for each child.

3. If the decedent leaves 3 or more legal children, then the legitieme portie is 3/4 of the ab intestato for each child.

The legal protection of heirs operates by limiting the testator's freedom of disposition. In practice, preventive protection depends on the care exercised by a Notary/Land Deed Official (PPAT) when preparing a deed of gift, including estimating the estate's value to avoid infringing the legitime portion of the heirs entitled to it (legitimaris). In reality, however, the protection available under the Indonesian Civil Code remains largely passive or repressive: it generally becomes effective only when an injured heir seeks a reassessment of the estate after the testator's death.18

From the perspective of legal protection theory, this situation demonstrates the need to balance prevention and dispute resolution. Preventive protection is not intended to eliminate a person's freedom to make gifts, but to ensure that this freedom is exercised within the limits established by law. Repressive protection, in turn, serves to restore rights when preventive measures have failed. These two forms of protection should be understood as parts of a single continuum: greater care when a gift is made can reduce the likelihood of disputes after the testator's death; if a dispute nevertheless arises, the inkorting mechanism must be available to assess and proportionately remedy any shortfall in the legitime portion.

Repressive protection comes into play when there is an allegation or finding that a legitimaris's rights have been impaired. This study identifies a claim for inkorting under the Indonesian Civil Code as the principal mechanism for this form of protection. This approach reveals a limitation: although heirs' rights are recognized by law, their restoration depends heavily on the heirs' legal knowledge, initiative, ability to present evidence, and readiness to pursue legal proceedings. The existence of protective legal provisions therefore does not automatically ensure that every injured heir can benefit from effective protection. The gap between formal recognition of rights and practical access to remedies is one of the key issues identified in this analysis.

The findings of this analysis indicate that legal protection for legitimaris should be understood in two complementary dimensions: preventive and repressive protection. The preventive dimension concerns efforts to prevent violations from the stage at which a gift is planned and formalized in a deed. In this context, the diligence of a Notary or Land Deed Official (PPAT) is important, particularly in verifying the identities and legal standing of the parties, clarifying the subject matter of the gift, and ensuring that the donor understands how the transfer may affect the interests of the heirs. A formal review of the gift documents alone may not be sufficient to address the substantive question of whether the heirs' legitime portion could be reduced. Accordingly, consideration of the legitime portion should form part of professional due diligence when a gift may transfer a substantial part of the donor's estate to a particular recipient.

Proposed Preventive Framework for Notary and PPAT Practice

The preceding analysis shows that preventive protection currently rests on a general duty of care. Article 16 paragraph (1) letter a of the Law on Notary Positions (Law No. 30 of 2004, as amended by Law No. 2 of 2014) requires a Notary to act in a trustworthy, honest, careful, independent and impartial manner and to safeguard the interests of the parties involved. However, neither this provision nor the regulations governing the PPAT (Government Regulation No. 37 of 1998, as amended by Government Regulation No. 24 of 2016) tell the deed-making official what to do when a gift may impair the legitieme portie. This study therefore proposes that the

duty of care be translated into the following procedural requirements, to be adopted through an amendment of the regulations governing the Notary and PPAT professions and their codes of ethics:

(1) Inheritance Asset and Heir Disclosure Checklist. Before a deed of gift is signed, the grantor states in writing the identity of his or her spouse, descendants and ascendants (the potential legitimarissen), the approximate value of the assets that will remain after the gift, outstanding debts, and all gifts made earlier. The checklist is annexed to the minute of the deed.

(2) Grantor's disclosure statement. The grantor declares that the information is complete and correct and that he or she has been informed that the gift may be reduced at the opening of the inheritance under Article 920 of the Civil Code.

(3) Written advice recorded in the deed. Where the checklist indicates that the gift, together with earlier gifts, may exceed the free portion of the estate, the Notary or PPAT gives written advice on the legitieme portie and records in the deed that the advice was given and that the donee acknowledges the possibility of inkorting. This acknowledgment limits later claims that the donee was unaware of the risk.

(4) Notice to potential heirs. Where the gift transfers a substantial part of the estate, the grantor is encouraged to inform the potential heirs in writing. Such notice should be framed as an acknowledgment and not as a waiver, because the right to demand reduction arises only at the opening of the inheritance (Article 920).

(5) Statutory accountability. The Law on Notary Positions should state expressly that failure to carry out and document the due diligence in (1)–(3) is a breach of the Notary's duty of care that may be sanctioned administratively, without making the Notary liable for the substantive calculation of the reserved portion, which remains a matter for the court.

Legal Consequences of Grants Proven to Violate Portie's Legitieme Rights

Based on the construction of the Civil Law, a grant that violates the legitieme portie is neither null and void by operation of law (nietig van rechtswege) nor voidable in its entirety (vernietigbaar) from the beginning of the act of grant. The grant remains legally valid at the time of its implementation, but its validity status becomes reducible or deductible (inkorting).19

This principle is based on Article 920 of the Civil Code which states that gifts or grants, either between the living or by will, that result in a reduction in the part of the legitieme portie, may be reduced at the time of the opening of the inheritance, but only at the request of the legitimate heirs. Therefore, the main legal consequence of the violation of legitieme portie is the incursion of the right of withholding (inkorting) until the absolute part of the heirs is fulfilled.

If the object of the grant has been transferred to a third party in good faith, Article 929 of the Civil Code (read together with Article 928 on the release of encumbrances created by the grantee) stipulates that the legitimate heirs can demand the recovery of the monetary value of the first grantee, or if the grantee is unable to afford it, the execution/demand of the goods can be carried out against the third party by bearing the burden of legal proof.20

The protection of third parties cannot be assessed under the Civil Code alone. Where the gifted property is land, the transfer is subject to the land registration system under the Basic Agrarian Law (Law No. 5 of 1960) and Government Regulation No. 24 of 1997 on Land Registration. Article 32 paragraph (2) of that regulation provides that a party who claims rights to land for which a certificate has been lawfully issued to a person who acquired it in good faith and actually controls it can no longer demand those rights if, within five years of the certificate's issuance, no written objection has been submitted to the certificate holder and the Land Office and no lawsuit has been filed. In addition, Supreme Court Circular Letter (SEMA) No. 4 of 2016 sets the criteria under which a good-faith buyer deserves protection, which include acquiring the right in accordance with the transfer procedure required by Government Regulation No. 24 of 1997.

This creates a potential friction with Article 929 of the Civil Code. A legitimaris may claim reduction only at the opening of the inheritance (Article 920), which can occur many years after the gift was made and registered. If the gifted land has meanwhile been sold to a buyer who holds a certificate and the five-year period under Article 32 paragraph (2) has expired, a claim aimed at the land itself may fail. The two regimes also protect different interests: the Civil Code protects a reserved portion for a limited class of heirs, whereas land registration protects the security of transactions. This study argues that the two should be reconciled through three principles: (1) a claim against the third party is subsidiary and arises only when the donee no longer holds sufficient gifted assets to restore the reserved portion; (2) a buyer who knew, or could reasonably have known, that the land was obtained through a gift infringing the legitieme portie does not qualify as a good-faith buyer under SEMA No. 4 of 2016; and (3) where the third party is protected, the legitimaris is restored through monetary recovery from the first donee, in line with Article 925 paragraph (2), which allows a donee to settle in cash where the gifted property cannot be divided.

The issue becomes more complex when the gifted property is subsequently transferred to a third party. In such circumstances, the restoration of rights involves not only the relationship between the donor and the first recipient, but also the status of the property after transfer and the evidence required. This study explains that Article 929 of the Indonesian Civil Code is relevant where the gifted property has been transferred, including the possibility of seeking monetary recovery from the first recipient and, under certain conditions, bringing a claim concerning the property in the hands of a subsequent holder. This situation illustrates that the further the property is transferred, the more important it becomes to trace documents, transfer history, property value, and the legal position of the parties. An authentic deed and registration of a transfer should therefore not be treated as reasons to disregard whether the legitimaris's legitime portion has been satisfied.

This analysis also highlights the importance of calculating the estate as a whole, rather than considering only the assets still held by the testator at the time of death. As discussed in this study in relation to Article 921 of the Indonesian Civil Code, the calculation takes into account the estate and gifts made during the testator's lifetime, as well as relevant liabilities or debts in accordance with the applicable rules. This calculation provides a more objective basis for determining whether a shortfall in the legitime portion exists. Without reconstructing the value of the estate and the history of gifts, an assessment of the alleged violation may rely only on the assets remaining at death, even though lifetime transfers may be the main reason the assets available to heirs have been reduced.

An important point emphasized in this study is the distinction between the validity of a gift as a legal act and the possibility of reducing it because it violates the legitime portion. A violation of the heirs' reserved share does not automatically mean that the entire gift was legally ineffective from the outset. Article 920 of the Indonesian Civil Code allows a legitimaris to seek a reduction of a disposition that infringes that reserved share. Under this framework, the remedy is directed at the portion proven to exceed what can be upheld against the legitimaris, rather than automatically nullifying the entire gift. This distinction is important for legal certainty because it clarifies that a dispute must be resolved by examining the legitimaris's rights, the value of the estate, and the effect of the gift on the reserved share to which the heir is entitled.

Legal Remedies That Can Be Taken by Heirs to Regain Legitieme Portie

Legitimate heirs who are harmed by the grantor's gift can take civil legal remedies in stages:

1. Non-Litigation Efforts (Deliberation/Mediation): The heirs recalculate all the inheritance (boedel) plus the value of the grants that have been given during the grantor's lifetime, then ask the grantee to return or surrender the portion of the shortfall of the legitieme portie voluntarily.

2. Litigation Efforts (Inkorting Civil Lawsuit): If a peaceful settlement fails, the legitimate heirs can file a civil lawsuit with the District Court (Inkorting Lawsuit).

In the judicial process, the determination of legitieme portie is carried out through the formula for calculating the accumulation of heritage property (Article 921 of the Civil Code).

From the total accumulated calculation, the portion of the legitieme portie of each legitimaris is determined. If the remaining real estate is insufficient to meet the portion of the legitieme portie, the court will decide on the deduction (inkorting) of the grants that have been issued, starting from the last grant granted (Article 924) until the absolute rights of the heirs are fully fulfilled.21

Article 924 of the Civil Code adds two conditions to the reduction. Lifetime gifts may be reduced only if the

testamentary dispositions are insufficient to secure the legitieme portie; and when lifetime gifts must be reduced, the reduction starts with the most recent gift and proceeds to earlier ones.

Judicial Practice: Analysis of Three Supreme Court Decisions

The case approach was applied to three Supreme Court decisions on lifetime gifts that infringe the legitieme portie. They show that judicial practice is not yet uniform on the remedy: the doctrinal remedy of proportional reduction (inkorting) under Article 920 coexists with decisions that annul the gift deed itself.

Decision No. 841 K/Pdt/2003 (originating from Palembang District Court Decision No. 100/Pdt.G/2001/PN.Plg) concerns legitimate heirs who demanded their reserved portion after the testator had made gifts during his lifetime. Commentary on this decision reports that the dispute turned on the calculation of the reserved portion under Articles 914, 920 and 921, because the claimants had not stated the value of the estate and of the lifetime gifts that Article 921 requires as the calculation base,22 and that the remedy applied was reduction of the gifts in proportion among the heirs who had received them.23

Decision No. 2892 K/Pdt/2021 (Surabaya District Court Decision No. 1186/Pdt.G/2019/PN Sby and Surabaya High Court Decision No. 585/PDT/2020/PT.Sby) concerns a notarial deed of gift by which a mother transferred land to one of her children. The Supreme Court dismissed the cassation appeal; the courts found that the gift infringed the reserved portion of the other heirs under Article 913 of the Civil Code, so that the defendants had committed an unlawful act (perbuatan melawan hukum), and the deed of gift and the accompanying deed of power to grant were annulled.24,25 Commentators observe that, in practice, such a deed remains valid until the injured heirs challenge it, so that it is voidable rather than void by law.24

Decision No. 2954 K/Pdt/2017 concerns a gift deed made before a PPAT whose object was an undivided estate and which exceeded the legitieme portie. According to commentary, the judge annulled the deed, with the consequence that the estate was to be distributed among the first-class heirs.26

Three findings follow. First, the remedy differs across decisions: proportional reduction in Decision No. 841 K/Pdt/2003, but annulment of the deed in Decision Nos. 2892 K/Pdt/2021 and 2954 K/Pdt/2017. Annulling the whole deed goes further than Article 920, which allows reduction only to the extent that the reserved portion is impaired, and it can also harm a donee whose gift was partly lawful. Second, the authentic form of the deed, whether made by a Notary or a PPAT, did not protect the gift from challenge, which confirms that evidentiary strength is not a substitute for substantive compliance with the legitieme portie. Third, the calculation under Article 921 remains decisive: where the estate and the lifetime gifts are not quantified, the claim cannot be assessed. These findings support the distinction between nullity and reducibility argued in this study and the preventive framework proposed above.

Illustration: Calculating Inkorting under Articles 921 and 924

The following hypothetical case shows how the calculation works when there are several gifts, debts and remaining assets. A decedent dies in 2026 leaving three children (A, B and C), no spouse and no testamentary dispositions. All values are stated as at the opening of the inheritance. The remaining assets are Rp600,000,000 and the debts are Rp100,000,000. During his lifetime the decedent made two gifts to persons who are not heirs: Gift 1 (2015) of land worth Rp700,000,000 to D, and Gift 2 (2022) of a house worth Rp500,000,000 to E. Table 1 sets out the steps.

Table 1. Hypothetical calculation of inkorting

Step	Calculation	Amount (Rp)
1	Remaining assets at death	600,000,000
2	Less debts	-100,000,000
3	Net remaining estate (1 − 2)	500,000,000
4	Add lifetime gifts: Gift 1 (700,000,000) + Gift 2 (500,000,000)	1,200,000,000
5	Calculation base (3 + 4), Article 921	1,700,000,000
6	Statutory share of each child (1/3 of the base)	566,666,667
7	*Legitieme portie* of each child (3/4 of step 6, Article 914)	425,000,000
8	Total reserved portions (3 × step 7)	1,275,000,000
9	Each child's share of the net remaining estate (step 3 ÷ 3)	166,666,667
10	Shortfall per child (step 7 − step 9); total for three children	258,333,333; 775,000,000
11	Reduction of Gift 2, the latest gift, in full (Article 924)	500,000,000
12	Reduction of Gift 1 for the remaining shortfall (775,000,000 − 500,000,000)	275,000,000
13	Result: each child receives 425,000,000; D keeps 425,000,000 (700,000,000 − 275,000,000); E keeps nothing	1,700,000,000 in total

The example shows three points. First, the calculation base includes the gifts and deducts the debts, so the reserved portion is measured against the whole estate and not only against what remained at death. Second, the reserved portion of each child (Rp425,000,000) is far above what each child would receive from the remaining estate alone (Rp166,666,667); this difference is the shortfall that inkorting must restore. Third, the reduction runs sequentially from the latest gift: Gift 2 is reduced entirely before Gift 1 is touched (Article 924), so the earlier donee keeps the larger part of his gift. Where a donee is also a legitimaris, or where a testamentary disposition exists, additional rules apply that are not illustrated here. Figures are rounded to the nearest rupiah.

Overall, the analysis shows that the legitime portion functions as a legal limit on the testator's freedom of disposition, while inkorting serves as a corrective mechanism when that limit is breached. The two concepts should be understood together. Recognition of the legitimaris's rights ensures that the freedom to transfer property does not negate the protection granted by law, while reduction of a gift enables restoration without assuming that every disputed gift is automatically void in its entirety. The effectiveness of this protection nevertheless depends on an accurate calculation of the estate, due diligence in preparing deeds, and heirs' access to dispute-resolution mechanisms. These findings confirm that legal certainty depends not only on the wording of legal provisions, but also on their consistent application and the availability of practical measures to protect heirs' legitime portions.

The findings identify practical obstacles that may affect the effectiveness of legal remedies, including the difficulties heirs might face in proving that a gift infringes upon their "legitimate portion," the time and costs involved in court proceedings, and the possibility that the gifted assets have already been transferred to third parties. These obstacles demonstrate that access to legal remedies depends not only on the existence of a legal basis but also on the ability to gather evidence and satisfy procedural requirements. Consequently, documenting the estate and any gifts from the outset, providing comprehensive legal explanations at the time deeds are drafted, and prioritizing objective calculations in dispute resolution are essential measures for mitigating conflict and strengthening legal protection in practice.

In an inkorting claim, the main issue is not merely proving that a gift was made, but demonstrating the relationship between the value of the gift, the total estate used as the basis for calculation, and the legitime portion guaranteed to the legitimaris. The legal argument should therefore be structured systematically: identify the person or persons entitled to the legitime portion; describe the relevant estate assets and gifts; calculate the reserved share under the applicable provisions; and then explain the shortfall caused by the disposition. This approach helps ensure that the claim is limited to the amount necessary to restore the right, consistent with the

nature of inkorting as a reduction of gifts. A judgment based on a transparent calculation may also provide greater legal certainty for both the legitimaris and the recipient of the gift.

Before filing a claim, a preliminary calculation of the estate can help heirs identify more precisely the existence and extent of the alleged shortfall in the legitime portion. This step includes inventorying the remaining assets, collecting information about gifts made during the testator's lifetime, tracing ownership documents and deeds of gift, and identifying relevant liabilities of the testator. The resulting inventory can serve as a basis for discussion or mediation with the recipient. An amicable settlement may avoid the costs and time associated with litigation, but it still requires adequate information so that the parties can understand the basis for calculating their respective rights. If no agreement is reached, these documents and calculations can also help establish the evidentiary basis for court proceedings.

5. CONCLUSION

Based on the results of the analysis and discussion, it can be concluded as follows:

1) The Civil Code provides legal protection for legitimate heirs through the norm legitieme portie (Article 913) which limits the free rights of heirs. This arrangement guarantees an absolute share for descendants in a straight line that cannot be deviated by grants during life.

2) The legal consequence of grants that violate legitieme portie is that the grant is not null and void, but can be reduced/deducted (inkorting) to the extent necessary to recover the absolute share of the legitimarial heirs.

3) The legal remedy that can be taken by the aggrieved legitimate heirs is to file a civil lawsuit inkorting to the District Court to demand a recalculation of the boedel property and a deduction of the grant value based on Article 920 and Article 921 of the Civil Code

4) Judicial practice is not uniform. The Supreme Court decisions analyzed reduce gifts proportionally in one case (No. 841 K/Pdt/2003) and annul gift deeds in others (Nos. 2892 K/Pdt/2021 and 2954 K/Pdt/2017), although Article 920 authorizes only reduction. The authentic form of a deed does not shield a gift from inkorting.

5) The protection of third parties must be read together with Articles 928–929 of the Civil Code and the land registration rules (Article 32 paragraph (2) of Government Regulation No. 24 of 1997 and SEMA No. 4 of 2016). A claim against a third party is subsidiary, and a buyer who knew or could have known of the infringement should not be treated as a good-faith buyer.

It is recommended for the public to consult juridically before making a grant, for Notaries to be more careful and provide legal advice regarding the limits of legitieme portie when making grant deeds, and for lawmakers to strengthen preventive legal protection mechanisms in national inheritance law. In addition, the competent ministry and the professional organizations of Notaries and PPAT are encouraged to adopt the Inheritance Asset and Heir Disclosure Checklist, the grantor's disclosure statement and written advice on the legitieme portie as mandatory steps in making deeds of gift, and the Supreme Court is encouraged to issue guidance so that inkorting is applied uniformly.

REFERENCES

1. Subekti, Pokok-Pokok Hukum Perdata, Jakarta: Intermasa, 2014, hlm. 107.
2. R. Soetojo Prawirohamidjojo, Hukum Waris Kodifikasi, Surabaya: Airlangga University Press, 2016, hlm. 45.
3. J. Satrio, Hukum Waris, Bandung: Alumni, 2018, hlm. 189.
4. R. Subekti dan R. Tjitrosudibio, Kitab Undang-Undang Hukum Perdata, Jakarta: Pradnya Paramita, 2019, hlm. 238.
5. Aristoteles, Nicomachean Ethics, Diterjemahkan oleh Roger Crisp, Cambridge: Cambridge University Press, 2000, hlm. 112.
6. John Rawls, A Theory of Justice, Cambridge: Harvard University Press, 1971, hlm. 53.

7. Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar, Yogyakarta: Liberty, 2010, hlm. 160.
8. Hans Kelsen, Pure Theory of Law, Translated by Max Knight, California: University of California Press, 1967, hlm. 193.
9. Gustav Radbruch, Legal Philosophy, Translated by Kurt Wilk, Massachusetts: Harvard University Press, 1950, hlm. 107.
10. Satjipto Rahardjo, Ilmu Hukum, Bandung: Citra Aditya Bakti, 2014, hlm. 54.
11. Philipus M. Hadjon, Perlindungan Hukum Bagi Rakyat di Indonesia, Surabaya: Bina Ilmu, 1987, hlm. 25-30.
12. Peter Mahmud Marzuki, Pengantar Ilmu Hukum, Jakarta: Kencana, 2008, hlm. 287.
13. Peter Mahmud Marzuki, Penelitian Hukum (Edisi Revisi), Jakarta: Kencana, 2019, hlm. 35.
14. Ibid., hlm. 133–134.
15. Ibid., hlm. 177–178.
16. Zainuddin Ali, Metode Penelitian Hukum, Jakarta: Sinar Grafika, 2019, hlm. 105.
17. Soerjono Soekanto dan Sri Mamudji, Penelitian Hukum Normatif, Jakarta: Rajagrafindo Persada, 2019, hlm. 14.
18. Herlien Budiono, "Akibat Hukum Hibah Yang Melanggar Legitieme Portie", Jurnal Hukum dan Pembangunan, Vol. 49 No. 2, 2019, hlm. 356–357.
19. Abdulkadir Muhammad, Hukum Perdata Indonesia, Bandung: Citra Aditya Bakti, 2014, hlm. 312–313.
20. M. Yahya Harahap, Hukum Waris Perdata, Jakarta: Sinar Grafika, 2013, hlm. 190.
21. Ahmadi Miru, Hukum Waris Perdata, Jakarta: Prenadamedia Group, 2016, hlm. 141.
22. Authors to be completed, "Studi Kasus terhadap Putusan Mahkamah Agung No. 841 K/Pdt/2003 tentang Penentuan Besaran Bagian Mutlak atau Legitime Portie", Universitas Katolik Parahyangan (thesis, year to be completed), repository.unpar.ac.id.
23. Authors to be completed, "Pembatalan Hibah Karena Melanggar Legitime Portie Ahli Waris Legitimaris (Studi pada Putusan Mahkamah Agung No. 841 K/Pdt/2003)", Universitas Sumatera Utara (thesis/repository, year to be completed), repositori.usu.ac.id.
24. Siti Rohana Hasibuan, Hasim Purba, Suprayitno, and T. Keizerina Devi Azwar, "Upaya Hukum Pihak yang Dirugikan Akibat Akta Hibah yang Melanggar Legitime Portie (Studi Putusan Mahkamah Agung RI Nomor 2892 K/Pdt/2021)", Jurnal Media Akademik (JMA), Vol. 2 No. 1, 2024, DOI: 10.62281/v2i1.116.
25. Authors to be completed, "Analisis Putusan Kasasi Nomor 2892 K/Pdt/2021 terhadap Pembuatan Akta Hibah", Universitas Negeri Surabaya (journal name and year to be completed), journal.unesa.ac.id.
26. Authors to be completed, "Akibat Hukum Pembatalan Akta Hibah yang Objeknya Harta Warisan yang Belum Dibagi kepada Ahli Waris dan Melebihi Legitieme Portie Berdasarkan Putusan Mahkamah Agung Nomor 2954 K/Pdt/2017", Indonesian Notary, Vol. 2 No. 3 (year to be completed), Universitas Indonesia.

Legislation and Court Decisions

1. Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek), Articles 913–929.
2. Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.
3. Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah (Article 32 paragraph (2)).
4. Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah, as amended by Peraturan Pemerintah Nomor 24 Tahun 2016.
5. Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris, as amended by Undang-Undang Nomor 2 Tahun 2014 (Article 16 paragraph (1) letter a).
6. Undang-Undang Nomor 3 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama (Article 49).
7. Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam (Articles 210–211).
8. Surat Edaran Mahkamah Agung Nomor 4 Tahun 2016 tentang Pemberlakuan Rumusan Hasil Rapat Pleno Kamar Mahkamah Agung Tahun 2016 sebagai Pedoman Pelaksanaan Tugas bagi Pengadilan.
9. Putusan Mahkamah Agung Nomor 841 K/Pdt/2003; Putusan Pengadilan Negeri Palembang Nomor 100/Pdt.G/2001/PN.Plg.
10. Putusan Mahkamah Agung Nomor 2954 K/Pdt/2017.

11. Putusan Mahkamah Agung Nomor 2892 K/Pdt/2021; Putusan Pengadilan Negeri Surabaya Nomor 1186/Pdt.G/2019/PN Sby; Putusan Pengadilan Tinggi Surabaya Nomor 585/PDT/2020/PT.Sby.