


The Legal Status And Protection of Heirs' Rights To Inherited Land in Pesawaran Regency: A Perspective From Civil Law And Islamic Inheritance Law

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Abstract

This study was motivated by the delay in the distribution of a twelve-hectare inherited plot of land in Pesawaran Regency since 2006, involving seven heirs. The delay was triggered by the unilateral action of one of the heirs who claimed ownership after paying off a bank loan, then sold the land without the consent of all the heirs, thereby causing conflict and legal uncertainty. The research questions encompass the causes of the delay, the legal status of the land, and efforts to protect the heirs' rights. The objectives of the study are to analyze the causes, examine the legal status, and formulate legal protections based on civil law and Islamic inheritance law. The method used is qualitative with a socio-legal approach, employing interviews, observations, and documentation. Data analysis includes reduction, presentation, and drawing conclusions, with validity testing through credibility, dependability, confirmability, and transferability. The research results indicate that delays are caused by internal factors, such as unilateral actions by heirs, and external factors, such as a lack of legal assistance and emotional considerations. The legal status of the land is joint ownership among the heirs. Unilateral sales are invalid, whereas repurchase by other heirs aligns with the concept of *syuf'ah*. Protection of rights can be pursued through mediation or through the Religious Court

Keywords : Inheritance, Delay, Protection

ARTICLE INFO

Received
February 02,
2026
Revised
March 12, 2026
Accepted
April 30, 2026

Diterbitkan oleh
ISSN
Website
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PENDAHULUAN

An inheritance consists of assets such as heirlooms and bequests that are subject to a transfer of ownership from the decedent to the heirs following the decedent's death (Ratu Marfu et al., 2024). Inherited assets may consist of movable or immovable property. In Indonesia, the inheritance law system comprises three main regimes: customary inheritance law, civil inheritance law, and Islamic inheritance law (Kitab Undang-Undang Hukum Perdata). All three systems emphasize the importance of distributing an inheritance fairly, clearly, and in a way that does not lead to disputes (Suherman & Adnan, 2024).

Under the law, the state's regulations stipulate that heirs automatically acquire ownership of the decedent's estate, including property, rights, and claims (KUHPerdata, Pasal 833,). Meanwhile, there are provisions governing the obligation to prepare the deceased's body for burial, execute the will, and settle the deceased's debts before the distribution of the estate takes place (KHI, Pasal 175). Article 183 of the Islamic Family Law also stipulates that the distribution of an estate must be carried out amicably through consultation (KHI, Pasal 183). This provision indicates that postponing the distribution of an estate is permissible as long as it is agreed upon by all heirs and does not disadvantage any party. However, in many communities, the distribution of an estate does not always proceed as it should. Delays in the distribution of an estate frequently occur and have the potential to cause various negative consequences, such as unilateral control over assets, unfairness among heirs, and prolonged family conflicts (Isnina, 2025). Such circumstances can even lead to legal disputes that damage family relationships.

The phenomenon of delayed inheritance distribution also occurred in Pesawaran Regency, Lampung Province, in a case involving twelve hectares of inherited land and seven heirs. The problem began when one of the heirs used the deceased's land certificate as collateral for a bank loan while the deceased was still alive. After the decedent passed away, that heir claimed to have purchased the land on

the grounds of debt repayment. The claim was not based on the consent of all heirs, thus triggering an internal family conflict (Wawancara dengan AL, 2026).

The situation became even more complicated when that heir subsequently sold the inherited land unilaterally to a third party without the knowledge of the other heirs. To restore ownership of the land to the family, one of the other heirs eventually repurchased the land. However, from 2006 to the present, no definitive resolution has been reached, resulting in legal uncertainty regarding the ownership status of the inherited land (Wawancara dengan AF, 2025).

This study examines the factors causing delays in the distribution of inheritances, the legal status of inherited land resulting from such delays, and the legal measures that can be taken to protect the rights of heirs. The objectives of this study are to analyze the factors causing delays, examine the legal status and standing of heirs' rights, and formulate solutions that provide legal certainty and justice. The research results are expected to provide theoretical and practical contributions to the development of inheritance law studies in Indonesia, particularly regarding the phenomenon of delays in the distribution of inheritance. Additionally, this study is also expected to serve as a reference for the public and legal practitioners in effectively resolving inheritance disputes through either a family-based approach or legal channels, thereby ensuring the protection of heirs' rights and minimizing the potential for conflict.

RESEARCH METHODOLOGY

This study employs a qualitative method to conduct an in-depth analysis of the socio-legal phenomena related to the status of inherited land and the protection of heirs' rights in Pesawaran Regency. The approach used is socio-legal, which combines normative analysis of legislation with empirical observations in the community. This approach was chosen to understand the relationship between inheritance law norms, both in the Civil Code and the Compilation of Islamic Law (KHI), and the practices that occur in the resolution of inheritance disputes.

The study was conducted in Pesawaran Regency, Lampung Province, where a case involving the delay in the distribution of a 12-hectare inherited plot of land has been ongoing since 2006. This is a field study aimed at obtaining primary data through interviews, observations, and documentation involving heirs, the deceased's grandchildren, and legal experts. Additionally, the study utilizes secondary data, including academic journals, laws and regulations, and previous research findings, to strengthen its theoretical foundation.

RESULTS AND DISCUSSION

Factors Delaying the Distribution of Inherited Land

This case involving the delay in the distribution of inherited land involves seven heirs and reflects a family conflict arising from the delay in the distribution of the inheritance as well as the unilateral actions of one of the heirs. The majority of the population in Pesawaran Regency is Muslim, so the practice of inheritance distribution generally follows Islamic inheritance law as stipulated in the Compilation of Islamic Law or KHI. Based on the results of field research conducted through interviews, observations, and documentation, it was found that this case began when one of the heirs used the deceased's land certificate as collateral for a bank loan while the deceased was still alive. After the debt was repaid, the eldest child claimed that the land had become his property on the grounds that the repayment of the debt constituted a form of purchase. However, the decedent did not approve of this claim because it did not meet the elements of a valid sale, particularly regarding the existence of an agreement and the consent of both parties. From an Islamic legal perspective, this action contradicts the principle prohibiting the unjust acquisition of another person's property (Al-Qur'an, [4]: 29). Debt repayment cannot be categorized as a transfer of ownership rights, but rather merely as the fulfillment of a loan obligation. Therefore, the unilateral claim of ownership made by the eldest child has no valid legal basis, either under Islamic law or civil law. After the decedent passed away in 2006, the heirs held a family meeting. However, the meeting did not result in an agreement because the eldest child continued to maintain his ownership claim. The conflict escalated when the eldest child sold the land to a third party without the consent of all the heirs. This action sparked a larger conflict within the family. In an effort by the heirs to return the inherited land to the extended family, the youngest child repurchased the land from the third party (Wawancara dengan AF, 2025).

Based on a socio-legal analysis, the factors delaying the distribution of the inheritance in this case can be divided into two categories: internal and external factors. Internal factors include unilateral actions by one of the heirs seeking to take control of the inherited land and the absence of a will from the decedent while the land certificate was in the possession of the eldest child. Meanwhile, external factors

include the absence of legal representation during deliberations, a weak understanding of land administration, and a community culture that tends to avoid conflict through formal legal channels.

The actions of the eldest child, who sought to take control of all the inherited land, have resulted in the delay of the distribution of the inherited land from 2006 until now. There is uncertainty within the family regarding the unclear status of land ownership. The heirs feel they need legal protection for their inheritance rights. This is because the delay in distributing the inherited land does not alter the status of the heirs. The heirs remain entitled to their share of the inherited land. Another reason the heirs need legal protection is that, in fact, they do not want this delay in the distribution of the inherited land. The heirs feel that if the delay continues for a long time, the inherited land will be left neglected (Wawancara dengan AL, 2026).

Another consequence of this unilateral decision is that family relationships become strained due to prolonged conflict. Additionally, the heirs experience emotional distress caused by the prolonged uncertainty. The absence of a will from the decedent in this matter further exacerbates the situation. The absence of such a document leads to differing interpretations among the heirs regarding the decedent's wishes, thereby increasing the potential for conflict. Therefore, early estate planning is crucial to prevent disputes from arising in the future (Wawancara dengan Ibu Pepi Marwinata, 2026).

Legal Status of Inherited Land

Legally, the inherited land in this case constitutes joint estate property, or the estate, which belongs to all heirs. This means that the heirs automatically acquire rights to the estate upon the decedent's death (KUHPperdata, Pasal 833 ayat 1). From the perspective of Islamic law, the same principle applies, affirming that both men and women have a right to an inheritance (Al-Qur'an, [4]: 11). Next, a detailed breakdown that determines each heir's share based on the faraidh system (Al-Qur'an, [4]: 12).

Since the decedent's death in 2006, the seven heirs have held joint ownership of the land. Therefore, the delay in dividing the inherited land does not alter its legal status, and the eldest child's unilateral possession of this inherited land lacks strong legal grounds. In fact, the sale of the land to a third party without the consent of all heirs may be classified as an unlawful act. State regulations stipulate that the sale and purchase of another person's property is null and void (KUHPperdata, Pasal 1471). Therefore, the transaction entered into by the eldest child may be rescinded, and the buyer is entitled to claim damages.

The act of the youngest child repurchasing the inherited land from a third party could make the youngest child the sole owner. However, since the youngest child's intention in repurchasing the inherited land is to return the land title to the extended family, this can be linked to the concept of *syuf'ah* in Islamic law (Wawancara dengan Ibu Pepi Marwinata, 2026). *Syuf'ah* is the right to purchase property that has been sold to a third party in order to preserve the integrity of joint ownership (Nurrahmaini & Zen, 2025). This action is justified if it is intended to protect the interests of all heirs.

In fact, to this day, the land title for the inherited property is still in the name of the deceased. Even when the heirs first gathered to divide the inherited land, it could have been distributed. However, because the land title was in the possession of the eldest child at that time, the ownership status of the land remained uncertain in the eyes of the extended family. This is what caused problems later on, particularly regarding the use, transfer, or use of the land as collateral (Wawancara dengan Ibu Pepi Marwinata, 2026).

Protection of Heirs' Rights

Legal protection for heirs in this case can be sought through non-litigation and litigation (Tampil et al., 2024).

a. Non-litigation Route

The non-litigation process is carried out through renewed consultations with the heirs, involving a neutral mediator, such as a religious or community leader. This approach is consistent with the family oriented values upheld by the local community.

Before the meeting takes place, it is important to ensure fairness for all heirs. One of the steps that must be taken is to settle the eldest child's obligation to reimburse the expenses incurred by the youngest child. This must be considered an obligation of the eldest child that must be fulfilled before the distribution of the inheritance takes place (Wawancara dengan Ibu Pepi Marwinata, 2026). Once the eldest child has fulfilled this obligation, the consultation may begin, and the estate may be distributed fairly in accordance with the rules of Islamic inheritance law. If an agreement is reached, the terms must be recorded in a deed of estate distribution to give it legal force (Wawancara dengan Ibu Pepi Marwinata, 2026).

b. Litigation Route

If the non-litigation process is unsuccessful, the matter may be resolved through litigation in the Religious Court, as this extended family is Muslim (Undang-Undang Nomor 3 Tahun 2006 tentang Peradilan Agama, Pasal 49.). This is in accordance with government regulations that grant heirs the right to file a lawsuit if an agreement cannot be reached (Instruksi Presiden Nomor 1 Tahun 1991, Pasal 188). Here are some legal steps that can be taken:

- 1) The heirs may file a lawsuit to void the sale
- 2) Application for the determination of heirs and the distribution of an estate
- 3) A third party claim for damages arising from the eldest child selling inherited land without the consent of all heirs

In addition, the eldest child's act of secretly selling the inherited land may be subject to criminal prosecution, as it could potentially be classified as embezzlement (KUHP, Pasal 372.). Therefore, a criminal complaint may be filed as an additional measure to deter the first child.

Once the settlement process is complete, an important step that must be taken is to register the transfer of land rights through a Land Deed Officer or PPAT and the National Land Agency or BPN. This process aims to provide legal certainty and prevent future disputes. Overall, the resolution of inheritance disputes aims to divide assets, restore family relationships, and create legal certainty. Therefore, greater legal awareness among the public and support from relevant institutions are needed to prevent similar cases from recurring.

Relevant Research

Numerous studies have been conducted by scholars from various academic disciplines on the legal status and legal protection of heirs in Indonesia, particularly regarding the unfair distribution of inheritances that leads to delays in the distribution of estates. However, most of these studies have focused primarily on the unfair distribution of inheritances caused by traditional practices within indigenous communities. The following are some relevant previous studies.

- a. Hardiyanti's 2020 thesis focused on conflicts over the management of local government-owned land assets triggered by claims from the public and private entities, as well as weak asset administration. This study, meanwhile, examines internal conflicts within families regarding inherited land (Hardiyanti, 2020). The difference lies in the legal subjects and objects, as this study focuses on unilateral control by one of the heirs, which results in a delay in the distribution of the estate.
- b. Izza Zahrotul Hani'ah's 2022 thesis examines the legal protection of heirs regarding absentee land acquired through testamentary gifts, with the primary focus on agrarian regulations. Meanwhile, this study does not address testamentary gifts or absentee land, but rather highlights inheritance disputes arising from unilateral actions by heirs (Hani'ah, 2022). The difference from this study lies in the source of the rights and the nature of the issues examined.
- c. Dedi Taufik's 2024 journal article, which examines the delay in the distribution of an inheritance within the framework of customary factors, social values, and family circumstances (Taufik, 2024). This study shows that the delay resulted from conflicts of interest and unilateral actions that harmed other heirs, not from cultural factors.
- d. Fakhru Zaman's 2025 thesis examines delays in the distribution of inheritance resulting from borrowing or temporary control of inherited assets. Meanwhile, this study reveals a more complex situation, namely unilateral control accompanied by sales to third parties without consent, as well as attempts by other heirs to repurchase the assets (Zaman, 2025). This raises legal implications regarding the unclear legal status of the heirs, even though their rights remain legally valid.

This study shares similarities with previous research in examining legal issues related to land and land rights that have the potential to cause conflicts among the parties. This similarity is also evident in the legal uncertainty that triggers disputes, whether due to weak administration, specific legal provisions, or actions by the parties that do not comply with applicable regulations. All studies highlight the impact of legal uncertainty, which can lead to prolonged conflicts, emphasize the importance of legal protection for aggrieved parties, and underscore the need for dispute resolution mechanisms, whether through non-litigation or litigation channels.

The unique aspect of this study lies in its analysis of unilateral control over inherited land accompanied by the unlawful transfer of rights, as well as its implications for the legal certainty of status and the protection of heirs' rights. This study confirms that a delay in the distribution of an estate does not result in the loss of the heirs' legal status; therefore, appropriate legal protections are necessary to ensure that the heirs' rights are upheld.

Based on the results of this study, it is recommended that future research examine the practice of unilateral control over inherited assets more broadly through a comparative approach from the perspectives of civil law, Islamic inheritance law, and customary law. Furthermore, it is recommended to develop an integrated approach combining normative and empirical methods regarding legal protection for heirs. This is because there is a need to enhance public legal awareness regarding estate planning, the drafting of wills, and proper land administration, as well as to optimize the role of relevant institutions in providing guidance and mediation. Additionally, every agreement regarding the division of an estate must be formalized in a legally binding document to ensure legal certainty.

CONCLUSION

The delay in the distribution of inherited land in Pesawaran Regency is a phenomenon influenced by both internal and external factors. Internal factors include unilateral actions by one of the heirs seeking to take control of the inherited land, as well as the absence of a will from the decedent when the land title is held by the eldest child. External factors include the lack of legal assistance during the deliberation process, limited understanding of land administration, and a cultural tendency to avoid resolving conflicts through formal legal channels.

Legally, the inherited land in this case retains its status as joint property or the estate, which belongs to all heirs upon the decedent's death. Therefore, unilateral control or sale of the land lacks a legal basis and can be categorized as an unlawful act. The repurchase of the land by one of the heirs does not change the ownership status to private property; rather, it remains part of the estate that must be divided fairly.

Delays in estate distribution have far-reaching consequences, encompassing legal, economic, social, and psychological aspects. Legal uncertainty, prolonged conflicts, and suboptimal utilization of assets are inevitable consequences. Therefore, resolution efforts are needed through non-litigation channels by prioritizing deliberation, as well as through litigation if an agreement cannot be reached. Ultimately, an appropriate resolution not only provides legal certainty but also preserves the integrity of family relationships and ensures the protection of the rights of all heirs.

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