

PELINDUNGAN AHLI WARIS *TESTAMENTAIR* ATAS PEMBUATAN SURAT KETERANGAN WARIS DI BAWAH TANGAN TANPA PENGECEKAN WASIAT (STUDI KASUS PADA KANTOR NOTARIS & PPAT X DI BANTUL)

Sabhina Farsya Hartono Putri¹, Sa'ida Rusdiana²

INTISARI

Penelitian ini bertujuan untuk mengetahui akibat hukum dari Surat Keterangan Waris yang dibuat di bawah tangan tanpa melalui pengecekan wasiat yang menyebabkan ahli waris *testamentair* tidak tercantum didalamnya, serta untuk mengetahui bentuk pelindungan hukum yang dapat diberikan bagi ahli waris *testamentair* terhadap Surat Keterangan Waris di bawah tangan.

Penelitian ini merupakan penelitian normatif-empiris dan bersifat deskriptif analisis. Jenis data yang diperoleh adalah data primer dan sekunder. Data primer diperoleh melalui wawancara dengan responden. Data sekunder diperoleh melalui penelitian kepustakaan berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Data disajikan secara deskriptif analisis dan dianalisa secara kualitatif.

Berdasarkan penelitian disimpulkan bahwa SKW yang tidak sesuai dengan keadaan sebenarnya dalam hal ini karena terdapat wasiat yang tidak dimasukkan sebagai dasar pembuatan SKW akan menimbulkan akibat hukum yaitu SKW dan akta peralihan hak atas tanah waris menjadi tidak sah atau cacat hukum, sehingga SKW tersebut dapat dimintakan pembatalan. Selain menimbulkan akibat hukum, perlunya dilakukan pelindungan hukum terhadap ahli waris *testamentair* dengan memberikan pelindungan hukum represif melalui jalur litigasi dan non-litigasi. Pelindungan hukum represif jalur litigasi dengan mengajukan gugatan ke pengadilan dan non-litigasi melalui mediasi atau musyawarah antara para pihak.

Kata Kunci: Wasiat di Bawah Tangan, Surat Keterangan Waris di Bawah Tangan, Pelindungan Hukum.

¹ Mahasiswa Strata Satu (S-1) pada Departemen Hukum Perdata, Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

² Dosen pada Departemen Hukum Perdata, Fakultas Hukum Universitas Gadjah mada, Yogyakarta.

PROTECTION OF TESTAMENTARY HEIRS ON THE MAKING OF A CERTIFICATE OF INHERITANCE UNDER THE HAND WITHOUT CHECKING THE WILL (CASE STUDY AT THE NOTARY OFFICE & PPAT X IN BANTUL)

Sabhina Farsya Hartono Putri¹, Sa'ida Rusdiana²

ABSTRACT

This research aims to determine the legal consequences of a handwritten inheritance certificate that was not checked against the will, resulting in the testamentary heir not being listed in it, as well as to determine the form of legal protection that can be provided to the testamentary heir against the handwritten inheritance certificate.

This research is normative-empirical and descriptive-analytical in nature. The types of data obtained are primary and secondary data. Primary data was obtained through interviews with respondents. Secondary data was obtained through literature research in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The data is presented in a descriptive-analytical manner and analyzed qualitatively.

Based on the research, it was concluded that SKW that does not correspond to the actual circumstances, in this case because there is a will that was not included as the basis for the SKW, will have legal consequences, namely that the SKW and the deed of transfer of inheritance rights will become invalid or legally flawed, so that the SKW can be requested to be canceled. In addition to legal consequences, it is necessary to provide legal protection for testamentary heirs by offering repressive legal protection through litigation and non-litigation channels. Repressive legal protection through litigation involves filing a lawsuit in court, while non-litigation protection is achieved through mediation or consultation between the parties.

Keywords: Wills Under hand, Certificate of Heirs Under Hand, Legal Protection.

¹ Undergraduate student at Department of Civil Law, Faculty of Law, Gadjah mada University, Yogyakarta.

² Lecturer of Departmenet od Civil Law, Faculty of Law, Gadjah mada University, Yogyakarta.