



PROVISIONS OF FULFILLMENT OF THE RIGHTS OF OUT OF MARRIAGE CHILDREN ON RECEIPT OF HEALTH ASSETS REVIEWING FROM THE BOOK OF CIVIL LAW (CASE STUDY: JURISDICTION OF THE SUPREME COURT NUMBER 1594K/PDT/2018)

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Abstract

*Regarding the legal position of illegitimate child in terms of inheritance which is different from legitimate child, it quite often found errors occur. The incident where an error occurred in the distribution of inheritance was also found in the case of the Supreme Court's Decision Number: 1594K/ Pdt /2018. Based on this case, a problem arises regarding the equal distribution of inheritance between legitimate children and illegitimate children. Then, problems arise, namely how the legal position of illegitimate children in receiving inheritance and what form of legal protection for illegitimate children who do not fulfill Article 272 of the Civil Code in receiving inheritance. The author uses normative legal research methods. the legal position of an illegitimate child who fulfills Article 272 of the Civil Code with a legitimate child is only the same for the ownership of *saisine*, *hereditatis petitio*, and *legitieme portie* rights, but the share of inheritance is different. Meanwhile, illegitimate children who do not fulfill Article 272 of the Civil Code can obtain legal protection such as receiving grants or testaments. So, the author can conclude that the portion of illegitimate children who fulfill Article 272 of the Civil Code gets a smaller share than legitimate children. For illegitimate children who do not fulfil Article 272 of the Civil Code, they are still entitled to legal protection like receiving grants or testaments. It is better for people who will become heirs to be able to distribute inheritance to their heirs fairly and equitably based on the provisions stipulated in the Civil Code.*

Keywords : Illegitimate Child, Legal Standing, Legal Protection

I. PRELIMINARY

A. Background Behind

Importance existence law inheritance because law inheritance is something field domiciled law _ important in life someone . Naturally Thing the based on on

base state where after somebody died , then happen something state that is move wealth owned by people who have die the to whole expert his heir . On the basis of condition that , of course , during the distribution inheritance disputes are possible could happened between _ whole expert his heir . So from that , law inheritance have enough role _ important if occur dispute or problem about treasure legacy that will shared for enforce justice as well as Becomes reason on statement that law inheritance is one of them field enough law _ difficult for abandoned or removed by people.

Inheritance law in Indonesia is pluralistic because divided into 3 (three) systems law inheritance that includes law inheritance custom , law inheritance Islam and law western heir . Based on classification system law inheritance it can _ found existence the difference between the court forums used in complete dispute inheritance . In complete case law western heir , the court used is District Court . Whereas in complete case law inheritance Islam , the court used is Religious Court . Whole system law the still applied as well as apply for whole Indonesian population .

book Act Law Civil Code , which is for next abbreviated Becomes the Civil Code , which regulates about law western heir is gathering governing rules _ regarding treasure wealth owned by a person , and because with the death of that person , then found moving wealth _ belongs to the person who left it as well as existence consequence on transfer riches the to everyone who can have it . ¹⁾ In Civil Code , found there are 2 (two) ways in get inheritance , that is if that person is expert inheritance *ab intestato* (because based on provision law) , which is regulated in Article 832 Civil Code ; as well as if that person appointed in something will (*testamentair*) , which is regulated in Article 899 Civil Code . ²⁾

¹⁾ Elviana Sagala , " Rights " Inherit According to Inheritance Law Provisions Civil ", *Journal Scientific Advocacy* , Volume 6, Number 1 (March 2018): 116, accessed November 20, 2020, doi : <https://doi.org/10.36987/jiad.v6i2.254>

²⁾ Zainuddin Ali, *Implementation Law Inheritance in Indonesia* , (Jakarta: Sinar Graphics , 2008), 82.

So with thereby deserve for it is also known that inheritance only could occur if Fulfill tree ongoing inheritance consisting of of 3 (three) things , namely there are people who died , there are treasure the wealth left behind , and the existence of expert heirs who still live in the moment death heir .³⁾

heirs _ consist from family blood with divided heir _ into 4 (four) groups that is group first , group second , group third , as well group fourth , with which to apply principle degree which is something affirming principle _ that degrees from expert his heir more close will close degrees from expert inheritance which more far away from heir with which thing the meant in Article 853 of the Civil Code . Fourth group the have right as expert inheritance for get treasure inheritance without conducted the so - called prosecution with right *saisine* . However , often arise problem related with right *saisine* this for child outside marry . outside child Marry as set in Article 43 Paragraph (1) of the Law Number 1 1974 _ about Marriage is birth child outside marriage and children the only have connection civil with her mother as well as family his mother .

So that based on statement that , if heir is his father child outside Marry that , of course child outside Marry no entitled accept treasure inheritance because no have right *saisine* on treasure inheritance relic late his father . However , if child outside married who have recognized or approved by mother and his father as listed in Article 272 of the Civil Code which states : that before his parents child outside Marry the married , parents child outside Marry the already confess child outside Marry or his confession the has held in deed marriage , then child outside Marry the has have right *saisine* and entitled for accept treasure inheritance . Frequent problems _ occur related with right *saisine* owned by children _ outside married who have recognized or validated the is about position the law in Thing different inheritance _ with child valid , with which is enough often occur error in distribution treasure proper inheritance _ accepted by child outside Marry that .

³⁾J. Satrio , *Law inheritance* , Print 2nd, (Bandung: Alumni, 1992), 8.

Incident where happening error in distribution treasure proper inheritance _
Becomes the share received by the child outside Marry also found in cases
Decision Supreme Court Number 1594K/ Pdt /2018. The heir in it is Late Cape
Rudie Association Lumban Tobing that has been marry religiously with _ deceased
Roesmiati and has offspring of 1 (one) child namely Rika Ariesti Tobing as
Plaintiff . Then the deceased Cape Rudie Association Lumban Tobing also does
wedding with Ning Biological Stop and have descendants of 4 (four) children
namely David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing
and Kardola as Defendants . _ Problem in case the occur because treasure
inheritance from Late Cape Rudie Association Lumbun Tobing that hasn't been
shared however already sold by the Defendants for Rp. 16,031,000. 000,- (six
mercy billion three twenty one million rupiah) with which the Plaintiff receive Rp.
150,000. 000,- (one hundred and fifty million rupiah). Naturally results sales
received by the Plaintiff no in accordance as set in Civil Code .

In accordance with those who have outlined above , then Court country
Central Jakarta already give the verdict that is verdict Number 323/ Pdt.G
/2015/PN Jkt Pst dated February 16 , 2016 with warning verdict that is reject
exception from Defendant for overall as well as grant lawsuit from Plaintiff for
part of it and declare that Plaintiff is one _ from expert legal heir _ from Late Cape
Rudie Association Lumban Tobing and asking Defendant for deliver deficiency
distribution inheritance to Plaintiff amounting to Rp. 3,056,200. 000,- (three billion
fifty _ six million two hundred thousand rupiah) not quite enough severally . Then
at the appeal level based on application from the Defendants , it turns out verdict
Court The country has upheld by the Court high Jakarta with existence verdict
Number 96/ Pdt /2017/PT DKI dated 8 May 2017. Then, after through level the
appeal , file cassation to Supreme Court and because on base existing considerations
, it turns out decision Court Jakarta's height in case the no contrary with law and/
or applicable law , then _ application cassation filed by the Petitioners Cassation
David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and

Kardola the must rejected . things _ that 's what it 's written in amar decision at the level appeal .

On the basis of case that , gives rise to problem about provision for child outside Marry for get treasure inheritance in accordance with right by fair and just . Based on Thing that's it , then Writer feel interested in To do study to topics this by comprehensive and pour it out in form writing thesis entitled : " Requirements " Fulfillment The Right of Children Out of Wedlock to Acceptance Treasure Inheritance Judging from the Civil Code (Study Case : Verdict Supreme Court Number 1594K/ Pdt /2018).

B. Formulation Problem

Based on state happening error in distribution inheritance should be accepted by the child outside found marriage _ in case Decision Supreme Court Number : 1594K/ Pdt /2018 as stated in the background behind that's it , then formula problem that will discussed by the Author as following :

1. How position law child outside Marry in reception treasure inheritance to case Decision Supreme Court Number 1594K/ Pdt /2018?
2. How form protection law for child outside unmarried _ _ Fulfill Article 272 of the Civil Code in reception treasure inheritance ?

C. Method Study

Method study is important part _ from something research , because method study this will Becomes directions and directions to something study as well as working in get truth . ⁴⁾ Method Author 's research Use in study this as following :

1. Method Approach

⁴⁾Peter Mahmud Marzuki , *Research Law* , Matter 13th, (Jakarta: Kencana , 2017), 20.

Method approach used by the Author is juridical normative .⁵⁾ Writer use method approach juridical normative with reason that in carry out research law use source data which is obtained through ingredients bibliography .

2. Specification Study

Specification Author 's research Use is description .⁶⁾ Writer use specification study description because study law this meant for provide researched and clear data possible about law inheritance specifically in Thing provision fulfillment right child outside Marry on reception treasure inheritance .

3. Stage Study

Stage Author 's research Use that is studies library . Writer use Step study studies References because study law this doing studies library on materials law that is ingredient primary law , material law secondary , and ingredient law tertiary .⁷⁾ Writer use Step study in the form of studies library started _ with Step search books law inheritance , then books law heirs who have searching for the collected , after books law inheritance collected , Author To do grouping books law inheritance as well as at the final Writer To do analysis from books law heirs who have there is .

4. Data Collection Techniques

Data collection techniques used by the author that is studies References for looking for secondary ⁸data). Secondary data or library data or known with ingredient law in study grouped law _ to in :

a. Ingredient Author 's primary law use that is Constitution Number 1 of 1974 concerning Marriage , Law Number 24 of 2013 concerning Top Changes Act Number 23 of 2006 concerning Administration Population , Regulations President Number 96 of 2018 concerning Requirements and Tata How to

⁵⁾ Mukti Fajar ND and Yulianto Ahmad , *Dualism Normative and Empirical Legal Research* , 4th Edition , (Yogyakarta: Pustaka Pelajar , 2017) , 153.

⁶⁾ *Ibid.* , 183.

⁷⁾ *Ibid.* , 160.

⁸⁾ *Ibid.* , 156.

Register Population and Registration Civil , Book Law Act Civil , as well as verdict Court Great Republic Indonesia Number 1594K/ Pdt /2018.

b. Material law secondary the Author use that is books about law inheritance and books scientific general in the field law in Indonesia.

c. Material law author 's tertiary use that is Dictionary Big Language Indonesian (KBBI).

5. method Analysis

Method Author 's analysis Use that is juridical qualitative .⁹⁾ Writer use method analysis juridical qualitative because tool analysis used by the Author in study law this is syllogism law deductions (general – specific) that come from from regulation legislation , theories literature , and judges ' decisions .

II.DISCUSSION

A. Legal Position of Children Out of Wedlock Reception Treasure Inheritance To Case Decision Supreme Court Number 1594K/ Pdt /2018

Children outside marry is child born _ from marriage religiously and only have connection law with mother and family her mother course . That thing signify that her marriage legitimate religiously , however no recorded by law so that no have strength legal and not recognized by the state. But , child outside get married too have connection law with his father if could proven with existence connection blood in meaning strengthened biologics _ based on legal process as described _ in verdict Court Constitution Number : 46/PUU-VIII/2010, dated 17 February 2012. Based on state that , then if child outside Marry no recognized by his father , then child outside Marry the only have connection law with mother as well as family her mother but no existence connection law with his father . So that child outside unmarried _ _ could confession from his father that , no entitled on treasure inheritance from his father . state the show position law child outside unmarried _ _ get confession from his father in Thing reception treasure inheritance his father ,

⁹⁾ *Ibid.*, 183.

has more position _ weak if compared with child outside already married _ his father admit nor with child legitimate . Naturally Thing the clarify that importance for To do confession to child outside married by his father so that his position law from child outside Marry in get treasure inheritance permanent protected .

Decision Court Constitution Number 46/PUU-VIII/2010 only play a role in strengthen position her mother child outside Marry in the process of requesting confession from the biological father of the child outside Marry it . state that needed if his father no want to doing confession to child outside Marry by volunteer . So that based on confession child outside marriage carried out by his biological father (biological), of course at the time it also arises connection civil with his biological father . After the acknowledgment process to child outside marry , then born and arise connection civil between father and child outside Marry the in accordance with existing rules _ in Article 280 of the Civil Code . Document proof that has did confession on child outside Marry could in the form of determination court , or recording confession in deed birth child at the time making deed birth child , or recording confession in deed parents ' marriage from child outside Marry that at the time did marriage , or with deed authentic like deed Notary Public or with deed special containing _ acknowledgment made by the Office of Records Civil .

Based on confession carried out by his father to child outside marry , then child outside Marry that has Fulfill Article 272 of the Civil Code that is has recognized before implementation marriage or confirmed at the time marriage the takes place , so that in Thing reception treasure inheritance apply the rules contained in Article 863 of the Civil Code until with 866 of the Civil Code that is if child outside married who have recognized get inheritance (inherit) together with group first , of course child outside married who have recognized the get 1/3 (one third) part from the part that should be received if he child legitimate . Then, when child outside married who have recognized inherit together with group second and group third , then child outside married who have recognized the get 1/2 (half) part from treasure inheritance . If child outside marry who have recognized inherit

together with group fourth , then child outside married who have recognized the get 3/4 (three quarters) share from treasure inheritance .

Furthermore , if child outside already married _ recognized inherit together with expert heirs who have relationship family in other degrees , then child outside Marry the get results from did *cloving* . However , if child outside already married _ get confession is expert inheritance the only one left , then child outside married who have recognized the get treasure inheritance by thorough . Provision distribution big treasure proper inheritance _ child outside Marry the thank you , just apply for child outside already married _ recognized before marriage in progress or at the time marriage the take place (recognition) conducted in deed marriage) as referred to in Article 272 of the Civil Code . So that , if child outside recognized marriage _ along marriage (after marriage take place) then child outside Marry the no have right for get treasure inheritance because existence provision for no can also be detrimental part husband or tied wife _ in marriage and children born _ in marriage the as set in Article 285 of the Civil Code .

Based on explanation that , can is known that good child outside already married _ recognized (acknowledged) without existence deed marriage of his parents) and approved (acknowledged) in deed the marriage of his parents) has the right get treasure inheritance from his father . The size children 's rights _ _ outside Marry in reception treasure inheritance from parents who admit it is same with children 's rights _ _ valid in principle . outside child recognized marriage _ is expert true heirs and also have right *saisine* , rights *hereditary petitio* and rights *legitimacy portie* . However , if noticed and studied more carry on could is known that the equation only come to the rights the course . That thing because in Thing the rest part child outside already married _ recognized no same with child valid , with reason child outside Marry no there is below power people old , but is at below power guardianship , so that the rights and shares it has are in Thing neither inheritance _ same big as well as with did confession only cause birth connection law between parents who acknowledge _ child outside Marry with child

outside Marry it . So that no including connection child outside Marry the with family acknowledge it . ¹⁰⁾

Though child outside married who have recognized get part treasure legacy that doesn't same with child legal , however position the law as expert inheritance stay same with child legitimate . That thing also seen in provision about *legitimacy portie* as set in Article 913 of the Civil Code is part from legacy that doesn't can reduced with existence gift during life like grant or gift will . For child outside married who have recognized , then part absolutely is 1/2 (half) of part according to law inheritance without *testament* as set in Article 916 of the Civil Code .

Naturally part *legitimacy portie* for child outside married who have recognized have difference with child valid , with what conditions on part *legitimacy portie* for child legitimate loaded in Article 914 of the Civil Code that is if have 1 (one) child valid , then the part he gets i.e. 1/2 (half) of part that if he inherit without existence *testament* (*ab intestato*); then if have 2 (two) children , then _ each child 's share _ is 2/3 (two thirds) according to law inheritance without existence *testament* ; if There are 3 (three) children or on i , then each child 's share _ is 3/4 (three quarters) according to law inheritance without *testament* . Then the position could replaced by his children and so on if no existence child .

With thereby could is known that position law from child outside Marry in reception treasure inheritance could seen based on confession made by his father child outside Marry it . If child outside Marry that no get confession from his father , then child outside Marry the no Fulfill Article 272 of the Civil Code , so that no entitled for get treasure inheritance from his father because connection the law he has only with mother and family her mother course . However , if child outside Marry get confession good confession before marriage nor acknowledgment of deed marriage from his father , then child outside Marry the Fulfill Article 272 Civil Code , so that entitled for get treasure inheritance from his father . outside child fulfilling marriage _ Article 272 of the Civil Code this have

¹⁰⁾ J. Satrio , Op. Cit ., 156.

position same law _ with child legal , like have right *saisine* , rights *hereditary petitio* , and rights *legitimacy portie* , just only difference _ Among child outside fulfilling marriage _ Article 272 of the Civil Code with child legitimate is big part or the portion received , where child legitimate get more parts _ big if compared with child outside fulfilling marriage _ Article 272 of the Civil Code that . For child legitimate could get inheritance based on position alone with meaning that expert inheritance the entitled for get treasure his legacy which is part from right alone as well as no because on replacement on other people 's rights . state the set in Article 852 of the Civil Code . Then share expert heirs who receive treasure inheritance because based on position alone get term that is inheritance head by head . It means is treasure the inheritance obtained by the expert inheritance the have the big part same .

Need also note that when confession to children outside marriage done by his father along marriage , then child outside Marry the no have right for get treasure inheritance from his father because no allowed harmful part husband or tied wife _ marriage and children born _ in marriage the as referred to in Article 285 of the Civil Code . So that based on explanation that , can it is also known that child outside recognized and fulfilled marriage _ Article 272 Civil Code have position law for follow as well as in signing letter description the notary 's inheritance . According to Article 1 Number 1 Act Number 2 of 2014 concerning Changes to the Law Number 30 of 2004 concerning position Notary , what is meant with Notary Public is office public who have authority in making deed authentic as well as have authority other as meant in Constitution position Notary Public or based on Constitution other .

Making letter description inheritance since presence Decision Court Constitution Number 46/PUU-VIII/2010 for child outside Marry allowed with based on existence from determination court and/ or deed birth new as one _ condition most important . Notary Public no have not quite enough answer to content determination . That thing because only court that has not quite enough

answer full to determination that .¹¹⁾ Notary Public in operate position for making letter description inheritance for child outside marry , need ensure there is or whether or not acknowledgment of children outside Marry with To do checking to deed confession child outside marriage , deed birth child outside marriage , determination court , and/ or requested description from the related parties _ about existence child outside already married _ get confession . Then after did checking to completeness document and proven face the is child outside already married _ get acknowledgment , then can made letter description inheritance .

Making letter description inheritance based on information from the parties listed _ in deed statement inheritance . Furthermore , notary as a expert will explain each part of expert the heir good because inheritance by *ab intestato* or inheritance by *testamentair* in letter description inheritance . Naturally not quite enough own responsibility _ Notary Public in making letter description inheritance only limited to the truth calculation part of each expert inheritance according to law inheritance . Whereas in Thing determination parties who have right for Becomes expert inheritance determined by a notary from existence deed statement inheritance , which form the deed is deed parties , by which _ juridical Notary Public only pour the description from the parties course . With thereby if there is description expert heirs who don't Correct so Notary Public no could sued , as one _ for example that is if found child outside Marry others who have get confession by legitimate however no is known its existence by a notary that .¹²⁾

If occur dispute about distribution treasure inheritance to child outside marry , then agreements that can used and made by a notary for solution dispute inheritance to child outside Marry that is deed cancellation , deed peace , and/ or

¹¹⁾ Dhikta A. Bhijana and Diana Tantri, " The Application " Decision Court Constitution Number 46/PUU-VIII/2010 on Implementation Distribution Treasure Inheritance For Children Out of Wedlock", *Private Law* , Volume 4, Number 1 (January-June 2016), 130.

¹²⁾ Noviana goddess Harjanti , "Role of Notary " In Certainty of Inheritance For Recognized Out - of -Marriage Children According to the Civil Code ” , *Jurnal Deed* , Volume 4, Number 4 (2017), 557, accessed November 10, 2021, doi : <http://dx.doi.org/10.30659/akta.v4i4.2497>

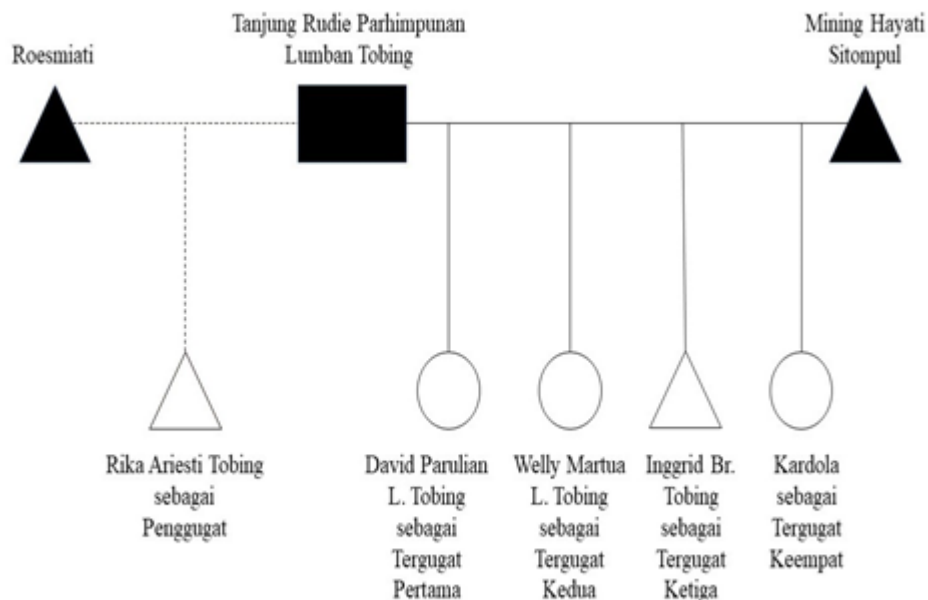
deed agreement release right demands . Deed cancellation that is something listed deed _ about there are experts agreed heir _ for cancel deed distribution heirs who have once made previously as well as for made deed distribution new heir _ then . So, in deed the child outside married before _ not yet including as expert inheritance , will conducted inclusion as expert inheritance with part according to what has been set in law . Whereas deed peace that is expert agreed heir _ for To do solution dispute inheritance with method agree as well as conducted distribution inheritance according to provision law . Then existence deed agreement release rights demands that is something the deed that was made without did cancellation deed division heirs who have made , but on the deed it , made something statement by child outside the marriage in question about released by him whole right on inheritance as well as no will To do prosecution expert inheritance other top treasure inheritance . Then in the deed it is also agreed about compensation that will received child outside Marry from expert inheritance other in accordance with agreement among experts _ _ inheritance that .¹³⁾

Problematic law next is enough often occur is about position law from child outside Marry in reception treasure inheritance often found error especially in Thing big the part that should be accepted by child outside Marry as found _ in case verdict Strengthened District Court until with level appeal to the Court Great. In decision the decided that Rika Ariesti Tobing as Plaintiffs who get part on treasure same inheritance _ big with David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola as the Defendants . Whereas Plaintiff is child outside Marry from Late Cape Rudie Association Lumban Tobing with deceased Roesmiati .

Based on explanation on about part on treasure the inheritance received by Rika Ariesti Tobing as Plaintiffs who are child outside Marry get same part _ with child

¹³⁾ Kadek Diyah Permatasari and I Made Pujawan , “The Role of Notaries In Making Deed Inheritance For Children Out of Wedlock”, *Jurnal Legal Studies* , Volume 1, Number 8 (September 2013), 5.

legitimate namely David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola as the Defendants , then position law child outside Marry as well as the part that should be received child outside Marry in reception treasure inheritance to case Decision Court Great Number 1594K/ Pdt /2018 which gives decision denial to application cassation filed by David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola because justify Court high in apply Law and Judgment Court That height has strengthen verdict Court Country that can explained as following :



Based on picture that , can is known that Late Cape Cape Rudie Association Lumban Tobing To do wedding religiously with _ deceased Roesmiati and has a a child named Rika Ariesti Tobing as Plaintiffs who are a child outside marry . Then Late Cape Rudie Association Lumban Tobing To do wedding religiously and legally with The deceased Mining Biological Sitompul and has 4 (four) children legitimate names are David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola as the Defendants . Referring to the case that , is known that on consideration judge law level first in Court A strengthened country until with level The cassation in the Supreme Court stated that that on the part that should be

accepted by experts inheritance from Late Cape Rudie Association Lumban Tobing is same big on results sale plot land and building with Certificate Rights Owned Number 436, an area of 4309 m² (four thousand three hundred and nine square meters) which has been sold by the Defendants to PT. Astra International Tbk amounting to Rp. 16,031,000. 000,- (six mercy billion three twenty one million rupiah). Whereas Plaintiff only receive money transfers from the Defendants amounting to Rp . 150,000. 000,- (one hundred and fifty million rupiah) is known based on proof of transfer submitted by the Defendants .

Based on consideration law , the Panel of Judges decided that should be money sale the shared by equally to whole expert where is the heir? Plaintiff is one _ expert the heir other than the Defendants . With thereby should part Plaintiff is Rp. 16,031,000. 000,- (six mercy billion three twenty one million rupiah) divided by 5 (five) experts inheritance to Rp.3.206.200. 000,- (three billion two hundred and six million two hundred thousand rupiah), minus what has been received Plaintiff 150,000,000 , - (one hundred and fifty million rupiah). So that still must accepted by the Plaintiff from the Defendants is amounting to Rp. 3,056,200. 000,- (three billion fifty _ six million two hundred thousand rupiah).

Based on consideration the judge 's law , the author no agree with the judge because Rika Ariesti as Plaintiff no is child outside already married _ get confession from his father as explained in Article 272 of the Civil Code . That thing also supported by no existence evidence that confirms that Plaintiff is child outside recognized marriage . _ With thus , by Rica Aristi's law Tobing as Plaintiff no entitled on treasure inheritance from his father that is Late Cape Rudie Association Lumban Tobing .

In accordance with the described in chronology case verdict Supreme Court Number 1594K/ Pdt /2018 which gives decision denial application the cassation submitted by David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola with reason justify Court Tall in apply Laws and Decisions Court High has strengthen verdict District Court , property inheritance from Late Cape Rudie Association Lumban Tobing in the form of plot land and buildings

located in Kelurahan _ Like Karya , Kota Baru District , Jambi Municipality , according to Certificate Ownership Rights Number 436, covering an area of 4309 m² (four thousand three hundred and nine square meters) has been behind name Becomes the names of the Defendants and have for sale to PT Astra International Tbk amounting to Rp. 16,031,000. 000,- (six mercy billion three twenty one million rupiah). So who is entitled Becomes expert legal heirs and get _ results sale the are David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola as Defendants _ course . That thing because of Rika Ariesti Tobing as Plaintiff is a child outside unmarried _ _ get confession and not Fulfill Article 272 of the Civil Code as one _ condition for have right on treasure inheritance in the form of results sale plot land and buildings it and act as expert inheritance from his father .

B. Form Legal Protection for Unmarried Children _ _ Fulfill Article 272 of the Civil Code In Reception Treasure Inheritance

outside child unmarried _ _ Fulfill Article 272 of the Civil Code is child outside unmarried _ _ get confession good before his parents carry on marriage as well as when their parents carry on marriage . outside child Marry this no have right *saisine* , rights *hereditary petitio* , and rights *legitimacy portie* in get treasure inheritance from his father . But only entitled on treasure his legacy mother and family his mother . Based on state that , then child outside unmarried _ _ Fulfill Article 272 of the Civil Code have position more law _ weak if compared with child outside fulfilling marriage _ Article 272 Civil Code and children legitimate . Though is child outside unmarried _ _ get confession , however with position as subject law , still entitled for get protection law .

Form protection law that can accepted by child outside unmarried _ _ Fulfill Article 272 of the Civil Code in reception treasure inheritance is through reception grant during life or reception grant will from heir . According to Article 1666 of the Civil Code in question with grant that is something agreement where giver grant give something goods by free or without pick up cost as well as no got it drawn

back , and of course for interest from the person receiving grant that . Whereas in Article 957 of the Civil Code , what is meant by with grant will that is something determination special will _ where existence someone who inherits with deliver a number of his possessions _ from something type certain or give right use results on whole or part treasure his legacy to 1 (one) person or more .

In principle in give grant use deed a grant made before _ office Maker Land Deed , next abbreviated become PPAT. PPAT according to Article 1 Number 1 Regulation Government Number 24 of 2016 concerning Change Top Regulation Government Number 37 of 1998 concerning Regulation position office Maker deed Land that is office general given _ authority in making deeds authentic about deed law certain about right on soil or Ownership of _ Unit House Arrange . Whereas gift grant will in principle use deed grant will or deed a will made before _ notary .

Need It is also known that what can receive and give grant is everyone , except those who are declared no have authorized by law for that as meant in Article 1676 of the Civil Code . Existence some people do n't either can give grant like based on Article 1677 of the Civil Code that is, people who haven't adult , except in something Marriage agreement is allowed . Provision this also applies to people who are below forgiveness . It was also found ban where husband wife no can donate one same other because have connection with Article 119 Paragraph (2) of the Civil Code , i.e treasure object marriage Among husband and wife During marriage no could fickle . However according to Article 1678 Civil Code , prohibition the already no apply for gift treasure tangible move , which has score no too height , which is based on ability from the grantor .

Besides get grant , of course child outside unmarried _ _ Fulfill Article 272 of the Civil Code can also get protection law in the form of reception will . Arranged will _ in Article 875 Civil Code is the deed containing about statement from someone about the things that will occur after herself died and by si maker will could drawn return his will that . A will that can obtained in the form of *erfstelling* (lifting) inheritance) or grant will (*leat*). *Erfstelling* or rapture inheritance as

listed in Article 954 Civil Code is will where give inheritance to somebody or more treasure his wealth good part , third , or all that will abandoned by maker will if he died .

If connected with Article 876 of the Civil Code , then could is known that *erfstelling* no required in the form of whole treasure relic with comparable terms _ with treasure his inheritance , and has position as expert inheritance . Whereas grant will or *relief* as set in Article 975 Civil Code is something determination the will special where to give inheritance to 1 (one) person or more with gift a number of from the stuff from something type certain . A person who gets grant will called as legality . Position from legal here _ different with position receiver will rapture inheritance . existence the difference that can be seen in position from legality it alone as receiver right special as regulated in Article 957 Civil Code . Based on Thing the could is known that right special considered as something declared rights _ by special in reception grant will . If not existence right that , then grant will will also lost . ¹⁴⁾

In practice if a father of child outside unmarried _ _ Fulfill Article 272 of the Civil Code make will for give treasure his legacy to child outside Marry that , of course his father child outside Marry that must come to office Notary Public for making will nor for storage will so that the will will be accepted by the child outside Marry that later _ could held legitimate by law . So need it is also known that in making will , will have a number of form that is a will that must written own (*olographic testament*); will general (*openbaar testament*); and wills secret .

III.CLOSING

A. Conclusion

¹⁴⁾ Umar Haris Sanjaya, “ Position Will _ To Treasure Unshared Inheritance _ To the Heirs ” , *Journal juridical* , Volume 5, Number 1 (2018), 77, accessed November 12, 2021, doi : <http://dx.doi.org/10.35586/.v5i1.317>

Based on the discussion that has been outlined that , then Conclusions drawn by the Author as following :

1. Position law child outside Marry in reception treasure inheritance only same for rights certain just like existence right *saisine* , rights *hereditary petitio* and rights *legitimacy portie* . However , for the part that should be received Among child outside Marry with child legitimate have no equal , with which part for child legitimate naturally will more big if compared with child outside marry . The need for also keep in mind that child outside rightful marriage _ on treasure inheritance from his father just child outside fulfilling marriage _ Article 272 of the Civil Code . Error in share treasure proper inheritance _ accepted by child outside marriage which is also found in the Verdict Court Supreme of the Republic of Indonesia Number 1594K/ Pdt /2018 which states denial to application cassation filed by David Parulian L. Tobing , Welly Martua L. Tobing , Ingrid BR. Tobing and Kardola as Defendants _ with reason justify Court deep height apply Law and Judgment The High Court has strengthen Decision Court Country, which states that the proceeds sale plot land and buildings to PT Astra International Tbk shared by equally to whole expert the inheritance , with which part Plaintiff is Rp. 16,031,000. 000,- (six mercy billion three twenty one million rupiah) divided by 5 (five) experts inheritance to Rp. 3,206.200.000,- (three billion two hundred and six million two hundred thousand rupiah), minus what has been received Plaintiff Rp . 150,000,000,- (one hundred and fifty million rupiah). So that still must accepted by the Plaintiff from the Defendants is amounting to Rp. 3,056,200. 000,- (three billion fifty _ six million two hundred thousand rupiah).

Even though Rika Ariesti as Plaintiff no is child outside get married _ confession from his father as explained in Article 272 of the Civil Code . That thing also supported by no existence evidence that confirms that Plaintiff is child outside recognized marriage . _ So that by Rica Aristi's law Tobing as Plaintiff no entitled on treasure inheritance from his father that is Late Cape Rudie Association Lumban Tobing and top results sale to plot land and buildings to PT Astra International Tbk should enough shared to David Parulian L. Tobing , Welly Martua L. Tobing ,

Ingrid BR. Tobing and Kardola as Defendants _ as expert inheritance which is child legitimate from Late Cape Rudie Association Lumban Tobing and entitled get treasure inheritance based on position alone as meant in Article 852 of the Civil Code , with part for each member inheritance of 1/4 (one quarter) part from treasure inheritance in the form of results sale on plot land and buildings .

So that could known that Assembly Judge in give decision about division treasure inheritance not yet in accordance with the conditions listed in Civil Code . Then, in consideration judge's law and decisions at the level of first in Court Strengthened country until with level appeal in Court The great who declared distribution treasure inheritance to child outside unmarried _ _ recognized with child legitimate with same part _ big could cause certainty law that doesn't achieved . That thing because parts on reception treasure legacy that has been set in Civil Code with implementation in practice no appropriate .

2. Form protection law for child outside unmarried _ _ Fulfill Article 272 of the Civil Code in reception treasure inheritance could in the form of reception grant or reception grant will from his father . If linked with case verdict Court Great Number 1594K/ Pdt /2018, in case that no found grant or grant the will received by Rika Ariesti Tobing as Plaintiff from his father that is Late Cape Rudie Association Lumban Tobing . So that based on chronology case on Judgment Supreme Court Number 1594K/ Pdt /2018, may is known that Rika Ariesti Tobing as Plaintiff besides no Fulfill Article 272 of the Civil Code also does not get grant or grant will as form protection law that can received without through the court process .

B. Suggestion

On the basis of the conclusion already explained above , then any suggestions that can Writer give as following :

1. For Assembly Judge Court best country get it always give consideration more law _ clear as well as appropriate in accordance with those who have set in Civil Code . That thing aims that a certainty good law _ could given to

disputing parties _ or litigation as expert heirs who have position law in get the part that becomes right as set in Civil Code .

2. For society later _ Becomes heir should get it always share expert the heir treasure inheritance by fair and equitable with based on the regulated provisions and listed in Civil Code . If heir is a father who has child outside get married , better conducted confession to child outside marry to fulfill Article 272 of the Civil Code , so that child outside Marry the Becomes entitled on treasure inheritance from heir . Then, when heir is a father who has child outside Marry however no To do confession on child outside Marry that , so child outside Marry the no Fulfill Article 272 of the Civil Code , preferably given grant or will to child outside Marry the as form protection law that can received by him . That thing have mean to get avoid all problem about distribution treasure legacy that doesn't appropriate with part should be accepted .

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