Management Of Inherited Property Left By Their Parents For The Heirs Of Minor Children

1M. Hasby Alfikri, 2Mohammed
1 Prodi Hukum Keluarga, Universitas Hasyim Asy’ari, Jombang Indonesia

Received: June 29, 2024
Revised: July 17, 2024
Accepted: July 22, 2024
Published: July 27, 2024

Corresponding Author:
Author Name*: Suci Rizka Fadhilla
Nia Rahma Dini
Sylvira Agshelya Wolontery

Email*: sucirizkafadhila@gmail.com
niarahmadini@gmail.com
agshelyasylvira@gmail.com

Abstrak: Heirs themselves have the meaning of people who at the time of death are in a marital relationship with the testator, are related by blood, are Muslim and are not prevented by law from becoming heirs. In the distribution of inheritance experts, there are also several indicators, the first of which is age, a child can manage his own inheritance when he reaches the age of 21 or is married. A custodial guardian is a person who in reality exercises custodial authority as a parent over a child. One of the concepts of having a custodial guardian is to protect the rights and fulfill the child's basic needs and manage the child's assets in order to ensure the child's growth and development and the best interests of the child. Becoming a foster carer cannot be done easily. Foster carers must have responsibilities and conditions that need to be met. One of them is that foster carers must ensure that the children they care for have their needs met both physically, emotionally and spiritually. Inheritance management refers to the processes and actions that regulate, manage and protect inheritance inherited from heirs, especially if the heirs are minors. This management must comply with applicable law, both civil law and Islamic law, which regulates guardianship and the rights and obligations of guardians in safeguarding the interests of children.

Keywords: Guardians, Heirs, Management of inherited assets

INTRODUCTION
Marriage is a process or contract to unite two people (opposite sex) legally under state law or religious law. Marriage is a sacred event, the principles of marriage in Indonesia are regulated in legal lines through statute or civil law. The breakdown of a marriage relationship can be caused by several underlying factors, one of which is death, the factor of marriage breakdown due to death will be related to problems of inheritance and heirs, especially for underage heirs (children) who are left behind, this problem becomes a serious discussion regarding assets. legacy of his parents. Inheritance is property or all legacies in the form of rights and obligations left by a person who dies. In the Islamic religion, the division of inheritance is regulated in detail according to its parts. Inheritance assets can be in the form of various types of assets such as property, cash, investments and other valuables.

Heirs themselves have the meaning of people who at the time of death are in a marital relationship with the testator, are related by blood, are Muslim and are not prevented by law from becoming heirs. In the distribution of inheritance experts there are also several indicators, the first of which is age, a child can manage his own inheritance when he reaches the age of 21 years or is married. For an heir who is still under age or has not yet been married, the management of the inheritance must go through a foster guardian, the second indicator is marital status, for heirs who have not yet married and the age limit does not exceed 21 years, they are included in the category of heirs of children under age. the third indicator is...
proof of birth as proven by a birth certificate or appropriate document, the fourth indicator is the death certificate or death certificate of the parents. This document is needed to show the date of death of the parents and the cause of death. Fifth, namely the court decision.

Inheritance management is a series of actions and rights that aim to ensure that the rights and interests of heirs can be recognized, respected and legally protected. In order to ensure that the rights and welfare of child heirs are well protected, there are several steps that can be taken, such as: through legal assistance, verification through the guardianship process, with judicial supervision, or by communicating well, talking to them as clearly as possible about their rights and situation. In this way, the rights and welfare of child heirs can be properly safeguarded.

The management of inherited assets for minor children must be delegated to foster guardians to ensure that the children's rights and obligations can be properly maintained, therefore legal protection is needed for the heirs of minor children. A custodial guardian is a person who in reality exercises custodial authority as a parent over a child. One of the concepts of having a custodial guardian is to protect the rights and fulfill the child's basic needs and manage the child's assets in order to ensure the child's growth and development and the best interests of the child. Becoming a foster carer cannot be done easily. Foster carers must have responsibilities and conditions that need to be met. One of them is that foster carers must ensure that the children they care for have their needs met both physically, emotionally and spiritually. The need for a foster guardian to manage the inherited assets of minors is because under the regulations, children are not allowed to manage the inherited assets they receive themselves. Because they are still considered incapable of making wise financial decisions. Legal protection for heirs is considered very urgent, this is because heirs have the right to receive inheritance from the heir. This legal protection is also needed to prevent risks that could harm the heirs, such as the occurrence of inheritance disputes between heirs which is one example of a small risk of loss. Management of inheritance for underage heirs regarding the assets left by their parents is very important to maintain transparency and good records regarding the use of inherited assets.

The background that underlies this research is because there are cases of minor heirs being harmed by their own inheritance, where the minor heirs received an inheritance from the heir (biological parents) in the form of 4 plots of rice fields and 1 building a house, in the process there were no problems, from the division of inheritance, then the foster guardian was chosen himself, but when this inheritance was managed by the foster guardian, these 4 plots of rice fields disappeared and were sold by the foster guardian without prior knowledge and permission, to the minor's heirs. This is a very worrying problem where the law clearly violates the rules, but the foster carer does not feel guilty because he claims that he does not know anything about managing the inheritance. From this case, the most important point can be taken, namely, the lack of awareness and insight into heritage management, which caused this incident to occur, this case occurred in Kp. Pamoyanan Ds. Sirnasari District. Surade District. Sukabumi

**METHOD**

The research method used in this research is a qualitative approach which focuses on the researcher's observation of existing problems to produce a more comprehensive study or phenomenon. The location of this research is in the village, Pamoyanan, Sirnasari Village, District. Sirnasari, Kab. Sukabumi, Data sources in this research are divided into 2, namely primary data and secondary data, primary data comes from interviews and observations, while secondary data comes from books, journals and theses from previous research. Data collection techniques through documentation and interviews. The data analysis
technique is using descriptive analysis by reviewing the data, identifying data, classifying data, and organizing data.

RESULTS AND DISCUSSION

Results
It is very important to pay attention to the management of the inheritance of minor children because this is related to fulfilling the rights and obligations of minor heirs carried out by their guardians. From the results of this interview, it was possible to confirm the results regarding the distribution of assets to the heirs of minor children and the negative impacts that occurred. These negative impacts start from the lack of clarity in the inheritance distribution process, the inappropriate fulfillment of rights that must be carried out by foster carers, as well as the losses experienced by underage heirs, where underage heirs cannot utilize their own inheritance. Next, there is a lack of knowledge about inheritance. So there are losses experienced by heirs, especially minor heirs. Lack of socialization from the authorities and also a lack of family awareness of understanding heritage. Therefore, researchers also conducted interviews with community leaders in Pamoyanan village, Sirnasari Village, Surade District, Sukabumi Regency. This is done to further ascertain what steps must be taken to resolve the inheritance problem. So it can be seen that the management of inheritance for minor heirs regarding the legacy of their parents is an important thing in protecting the heirs of minor children. The concept of inheritance management must be clear in its implementation, so that no party is harmed, especially in this case involving minors. The development of the lives of minor heirs can be seen in the development of the management of their inheritance by their own guardians.

The case of underage heirs is actually enough to build clearer policy support and make it a priority. This shows awareness in efforts to prevent cases of underage heirs from spreading more widely, and those that have occurred have received further treatment. This aims to foster a sense of love and affection between foster carers and the heirs of minor children, so that no party is harmed during the process. There are several factors that influence the management of inherited assets of minors, namely the first is the legal capacity of minors, the second is the role of guardianship, the third is the inheritance rights of minors, the fourth is the management of inherited assets by guardians and the fifth is the resolution of inheritance disputes, if the dispute between heirs is related to the distribution of inherited assets.

Discussion
As for the management of inheritance for minors, the principle of protecting minors is in accordance with Law number 4 of 1979 concerning child welfare, that every child has the right to receive protection, including protection of the property that is their right. This is used to support children's welfare in all aspects of their lives. What follows is the role and responsibilities of guardians. Guardians are responsible for managing the inheritance of minor children. The guardian must act as a wise and responsible manager, ensuring that the assets are used for the benefit of the child. Next, in the compilation of Islamic law, in the context of Islamic law, it provides clear guidelines regarding the management of inheritance for minors. According to KHI, guardians must use inherited assets for purposes that are in line with the interests of the child and must not misuse these assets for their own interests.

There are several factors that influence the management of inherited assets of minors, namely the first is the legal capacity of minors. Based on the Civil Code, children under 18 years of age or who have not yet entered into a marriage are not yet adults and are not legally competent. This means that children cannot independently manage their rights, including managing and receiving their inheritance. Regarding the
management of inheritance of minor children, the most important aspect is the guardian's responsibility for managing the inheritance of minor children. The second is the role of guardianship. This guardianship is the most important because supervision, control and protection of the child is the responsibility and obligation. It has been explained legally according to the contents of article 50 paragraph 1 no 1 of 1974 of the Civil Code that minor children who are not under the authority of their parents are under the authority of their guardian. And in the next paragraph it is also explained that guardianship itself does not only concern property, but regarding the child's personal and property is the responsibility of the guardian, the third is the inheritance rights of minors, minors have rights to property. inheritance from their parents and inheritance rights cannot be revoked by anyone, including parents or guardians. Fourth, management of inheritance by guardians, guardians are obliged to manage the inheritance of minor children carefully and responsibly. As stated in the Government Regulation of the Republic of Indonesia number 29 of 2019 concerning Requirements and Procedures for Appointing Guardians, in this regulation there are rules that must be carried out by guardians in managing the inheritance of minor children, and the fifth is resolving inheritance disputes, if Disputes between heirs regarding the distribution of inherited assets can be resolved through deliberation or legal channels. Legal channels are used if deliberations do not reach a decision, then one of the parties can file a lawsuit in court to resolve the dispute.

Management of inherited assets of minor children must be carried out with consideration of the interests of the child. It is important to better understand the legal capacity of minors to obtain appropriate and appropriate guidance.

CONCLUSIONS
The inheritance of minor children is not directly received by the heir. In fact, in Islam itself, children who are not yet adults can still receive their rights through the intermediary of a guardian, even though they are not subject to obligations or are called Ahliyah al-wujub al-naqishah. In this case, family relatives or older siblings can be guardians of minor children. In daily practice at Kp. There is a lack of understanding regarding the inheritance of minors' heirs, both in terms of written records, unclear division of inheritance, such as only verbally between parents and children without any witnesses. Which creates losses for the heirs.

REFERENCES


SmartLegal.id. 2018. "Conditions for Guardianship of Children Left Behind by Their Parents." SmartLegal.id.