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Settlement Of Inheritance Dispute Through The Gampong Customary Court (Research Study at Gampong Jambo Mesjid Lhokseumawe City)

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Abstract

The Gampong Customary Court always strives to achieve justice for competing communities by seeking harmony and harmony as required by Qanun Number 9 of 2008 concerning the Advancement of Customs and Customs. However, there are many obstacles in solving wars because of each of them. The purpose of this study is to identify and explain the control over the payment of inheritance through the Customary Court in Gampong Jambo Mesjid, Kota Lhokseumawe and the obstacles encountered by the organizers of the Traditional Court of Gampong Jambo Mesjid, Kota Lhokseumawe in order to complete the inheritance. This type of assessment is a qualitative approach with a sociological juridical approach. The data sources used are primary data, including the results of interviews with informants and respondents. Secondary data sources come from primary legal materials, secondary legal materials and tertiary legal materials. According to the results of the study, it is known that; The mechanism for inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Kota Lhokseumawe is carried out through deliberation techniques between members of the Gampong Customary Court, community leaders, and also from the families of the two disputing parties. Cases are resolved by prioritizing the principles of peace, kinship, and finding reliable sources of information on the matter. In a dispute, the disputing parties must be notified in accordance with the rules of common law, religion, and applicable positive law. The result of a joint decision, "Gani Ali Basyah is charged with paying compensation to Ti Aman in the amount of Rp. 7.500.000, - (Seven million five hundred thousand rupiah)". The obstacles faced by the executor of the Traditional Court of Gampong Jambo Mesjid, Kota Lhokseumawe in resolving the dispute were the difficulty of dealing with the defendant, the occurrence or difference of opinion between the defendant and the plaintiff, and the fact that the parties to the dispute did not provide information. We have filed a case with the Village Court to conceal the facts that led to the inheritance dispute, the provocation of third parties and the lack of accurate data on inheritance. It is recommended to open the views of the conflicting parties about the peace efforts and various legal aspects and their scope. The community has the right to continue to peacefully resolve inheritance disputes through the Gampong Customary Court. The settlement of cases will follow the mechanism recommended by Islamic law.

Keywords

Inheritance Disputes, Gampong Customary Court

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1. Introduction

The transfer of property from heirs to heirs after his death is a mechanism that is so common in customary law that exists among Indonesian indigenous peoples. However, although in general inheritance law it is not customary for an heir to inherit during life (during life), this is an application of the principle or doctrine of inheritance in common law. According to common law, inheritance includes all property owned by an heir or heir during his lifetime. In this case, it is not limited to the estate of the testator at the time of his death.

Indonesian customary inheritance law has a pluralistic nature because of the diverse lineage system that forms the basis for the system of tribes and ethnic groups. Regarding the legal shortage in Indonesia, there are still three existing succession legal systems: the succession law of the Civil Code, Islamic law, and customary law.

The enforcement of general jurisdiction is currently supported by a number of laws and policies. In other words, the legal framework for the empowerment of customary institutions and customary law is extensive. The various statutory policies clearly state that the strengthening of common law and common justice must come from the *gampong* and *mukim*. Basically the same, the provincial councils in each region of Aceh have their own local legal basis, which is called the Regency/City *Kanun* which is formed according to the Aceh *Qanun* on customs, subject to legal regulations.

The legal basis that regulates the implementation of the Customary Courts includes "Law Number 11 of 2006 concerning the Government of Aceh, chapter XIII concerning the resolution of social problems taken through the Customary Institution, as well as Regional Regulation (Perda) Number 7 of 2000, the Regional Regulation is now replaced by *Qanun* Number 9 of 2008, concerning the Guidance of Indigenous Life and Customs".

The *Gampong* Court in all of its decisions regarding community dispute resolution is always based on analysis and considerations that cover all areas of kinship and are legally binding on all cases, because all considerations continue to pay attention to living standards and development. in a society that adheres to Islamic law. All cases that arise in the community can be understood as customary law settlements.

Gampong customary courts in Acehnese society act as a means for the community to take part in the administration of government, development and society. The role of customary courts has its own pattern and approach. Likewise in solving social problems that arise in society. The Customary Court has a model and approach that has been recognized by the government of the Republic of Indonesia as an alternative to solving problems that arise in the community, such as the inheritance dispute that occurred in *Gampong Jambo Mesjid* in the city of *Lhokseumawe*.

"Inheritance law according to customary law must continue to be supported by its implementation in the community. When the law has been implemented properly, the mechanism for institutionalizing legal culture will be realized. One of them is customary law which is implemented by the *Gampong Jambo Mesjid* Customary Court, *Lhokseumawe* City. In this village, disputes within the community are more dominantly ended through customary law because the settlement of cases through the *Gampong* Customary Court is more in line with the sense of justice that grows in the community and is grouped more precisely".

Inheritance disputes often arise as one of the problems that arise in the village which is an interesting issue to study, especially related to the distribution of inheritance because in general, inheritance has a great value in terms of inheritance, economy and religion. In other words, inheritance can bring happiness in one aspect and misfortune in another, if the distribution does not follow the rules that must be followed.

Issues for inheritance in most societies are usually held up in family arrangements. However, problems often arise between heirs, especially if they are not satisfied with the distribution of their inheritance or if there is a dispute about the distribution of the inheritance, the plan usually arises and is referred to a district court or court. Big. However,

currently all problems and disputes that arise in the community must be resolved first based on the customary law that applies in each village.

Disputes/disputes that arise at the gampong and mukim levels which have a mild nature are according to Article 13, Article 14, and Article 15 of the Aceh Qanun Number 9 of 2008 concerning the Guidance of Customs and Customs, which must be ended first through the Gampong Customary Court. There are provisions above, so it is certain that the head of Gampong in Aceh (Geuchik) has official and legal powers which are clearly stated in the legislation product (qanun) and described in the Governor's Policy".

Technically, the operational procedures for ending disputes/disputes with adat in the gampong have been contained in the "Joint Decree (SKB) between the Aceh Governor between the Aceh Regional Police and the Aceh Customary Council Number 189/677/2011, 1054/MAA/XII/2011, B/ 121/1/2012 concerning the Implementation of Gampong and Mukim Customary Courts. which is explained by the Aceh Governor's Policy Number 60 of 2013 concerning the Management of Ending Customary and Customary Disputes/Disputes. Even law enforcement officers give up the opportunity so that disputes/disputes are ended first with adat in Gampong".

The people of Gampong Jambo Mesjid, Lhokseumawe City consider that the settlement of disputes/cases through the Gampong Customs Court is still considered necessary. community and this is classed as more efficient. As Mahadi said, "customary law is more effective and obeyed, even though it is not written down".

One of the inheritance dispute cases that was resolved by customary law at the Gampong Jambo Mesjid Traditional Court, Lhokseumawe City, was "the settlement of inheritance disputes between Ti Aman Alibasyah (52 years) and A. Gani Ali Basyah (63 years), of which Ti Aman Alibasyah was son of Alm. Ali Basyah from a young wife. Meanwhile, A. Gani Ali Basyah is the son of the late Ali Basyah from his first wife.

"The inheritance in dispute is a plot of land with an area of 1,348 M2 which A. Gani Ali Basyah has built a house. However, the garden has exceeded the portion of the inheritance that A. Gani is entitled to receive. On the other hand, Ti Aman Alibasyah feels that he does not have enough of the inheritance he deserves. Therefore, a dispute arose between one party and the other. Until finally Ti Aman Alibasyah reported the case to the Gampong Customary Court".

In accordance with the explanation above, the authors are interested in carrying out a case study study with the title "Resolving Inheritance Disputes Through the Gampong Customary Court (Research Study at Gampong Jambo Mesjid, Lhokseumawe City)

Based on the background above, so that the formulation of the problem in this study is:

1. How is the implementation of the settlement of inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Lhokseumawe City?
2. What are the obstacles faced by the implementers? Village Customary Court Lhokseumawe City Mosque Jamboin resolving inheritance disputes?

This type of assessment is qualitative. Qualitative assessment is an assessment method used to examine the situation of a natural object, where the researcher is the key instrument, data collection techniques are carried out in a combined manner, data analysis has an inductive nature, and the results of the study target meaning rather than

generalizations. This study aims to find the facts regarding "settlement of inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Lhokseumawe City". The approach used in this study is the approach empirical juridical. According to Abdul Kadir Muhamad, "empirical juridical research is research carried out by examining secondary data first and then continuing by carrying out an assessment of primary data in the field". That is the issue under study.

This study has a descriptive nature, namely elaboration and intends to obtain a complete illustration (description) of the legal situation that exists in a special location and at a special time, or regarding existing juridical indications, or special legal events that arise in the community. Namely regarding "settlement of inheritance disputes through the Customary Court in Gampong Jambo Mesjid City of Lhokseumaw

2. Discussion

2.1 Process for Settlement of Inheritance Disputes through Customary Courts in Gampong Jambo Mesjid Lhokseumawe City

The process of implementing the settlement of inheritance land disputes is carried out by deliberation between members of the Gampong Customary Court, community leaders, and also from the families of both parties to the dispute, the reason is to avoid slander from one of the disputing parties and cause bad and prolonged impacts to both parties and their families. In the deliberation, the Gampong Customary Court asked the disputing parties to explain the case, then jointly held a deliberation to find a way that was best for both parties and this was carried out in a familial manner because the Gampong Customary Court strictly maintains the principle of kinship and does not I want this family relationship to break just because of a case of inheritance rights."

The results of this study are in line with Article 15 of Aceh Qanun No. 9 of 2008 concerning the Guidance of Customary Life and Customary Tradition, it is stipulated that the procedures and conditions for resolving disputes/disputes are enforced in accordance with local regulations. This provision is very short and concise, but its meaning is very deep and broad. This is one of the characteristics of flexible common law. In other words, with respect to substantive and formal law in the process of resolving cases, it refers to the customary law around according to the customary proverb "the bottom is different, the fish is different, the grass is different too".

Geuchikor Gampong officials collect all the heirs and then the witnesses. All of these issues were then discussed at the Gampong Customary Court, a deliberation forum consisting of the village priest, Tuha Peut, and also attended by traditional and religious leaders. The customary law settlement of inheritance land disputes in Gampong Jambo Mesjid, Blang Mangat District, Lhokseumawe City, was settled entirely by prioritizing the principle of kinship, and the settlement must be done from reliable sources, that is, it must be done by looking for people who are elders and public figure. This Method of Settlement of Inheritance Disputes at the Gampong Customs Court is a meeting point that aims to resolve disputes and problems that arise in the Gampong.

The enforcement of general jurisdiction is currently supported by a number of laws and regulations. In other words, the legal framework for the empowerment of customary institutions and customary law is extensive. These various laws and regulations explicitly

state that the strengthening of common law and common justice must come from the gampong and mukim. Basically the DPRD in each region of Aceh still has its own local legal basis, called the Regency/City Qanun, which was formed in accordance with the Aceh Province Qanun regarding adat, adhering to statutory policies.

Implementation process/division of inheritance actually always leads to peace efforts. The directions are in the form of providing advice in accordance with the provisions of customary law, religion and applicable positive law. All of this is done in the wisest way possible, so that the understanding of the values and legal provisions that exist by the disputing parties can touch their souls and minds who are then aware of the rights of others. In this case, the settlement is carried out cautiously with no defense on one side because the Gampong Customary Court prioritizes those whose names are family or relatives and this mechanism is considered as fair as possible so that no grudges are stored between the two parties. before discussing the issue of dispute,

The results of this study are in accordance with the opinion of Mr. Badruzzaman Ismail that the customary court in the context of Aceh is what the people of Aceh really want, an inexpensive and psychologically satisfying institution. Even this thing is emphasized again with the Acehnese *hadih maja* known as an expression: "Hukom Lillah swears defender, customary law binds defender, Law is ade with defender, Hukom Meujroh uses defender. This means that there is no oath to rule by divine law, that decisions need not be bound by common law, that the law must be fair, that it can be enforced by the law of peace, and various other *maja* gifts.

The settlement of inheritance land disputes carried out by the Gampong Customary Court is simple and good so that the advice and religious views given make his soul touched which in the end the issue of inheritance disputes is obtained by a mutual agreement. In this case, A. Gani Ali Basyah gave compensation to Ti Aman in the amount of Rp. 7.500.000, - (Seven million five hundred thousand rupiah). The process of resolving inheritance disputes is carried out based on Islamic law or in the Qur'an and both parties agree to get along and end the case by continuing to use customary law or with kinship, and this is official and in line with Article 183 KHI.

In the peace process, according to common law, the Common Law Assembly is very wise in resolving disputes that arise in society. Settlement of inheritance disputes is carried out impartially in a safe, peaceful and familial manner, as well as to restore brotherhood or friendship between the parties in dispute by taking into account the principles of deliberation and consensus. This does not break the bonds of brotherhood. No grudge or pain. Because the parties are completely honest in all their decisions. This is the end of the handshake.

2.2 Barriers Faced by Implementers Gampong Customary Court Lhokseumawe City Mosque Jambon In Resolving Inheritance Disputes

Obstacles faced by implementers Gampong Customary Court Lhokseumawe City Mosque Jambon order to end disputes over inheritance, namely between the disputing parties does not provide clear information to the Customary Court *village* and hide the facts that led to the case of the inheritance dispute. When one of the parties reveals the facts in the trial, there will be a commotion among the disputing parties.

The mechanism for ending inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Blang Mangat District, Lhokseumawe City, the obstacle faced is the difficulty of approaching the defendant because the defendant is outside the area. In addition, the occurrence of disputes or disagreements between the defendant and the plaintiff, as well as the absence of accurate data regarding the inheritance. There are also reporters who do not accept the decision of the Customary Court so that a re-approach with the complainant must be made to find a way out in realizing peace between the two parties.

"The obstacles faced by the implementers" Gampong Customary Court Lhokseumawe City Mosque Jamboto end disputes over inheritance, namely between the disputing parties does not provide clear information to the Customary Court *village* and hide the facts that led to the case of the inheritance dispute. When one of the parties reveals the facts in the trial, there will be a commotion among the disputing parties. It is difficult to get accurate data because the distribution of inheritance was previously carried out in a familial manner. Then there are assets that are donated during the lifetime of their parents without the knowledge of their children."

The process of ending inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Blang Mangat District, Lhokseumawe City encountered obstacles because the party carrying out the land dispute case did not want to submit a clear statement to the local government or community leaders, the family also did not want to submit a definite statement or cover up the facts that cause land disputes to arise.

Apart from some of the obstacles mentioned above, there are also several obstacles faced, namely the absence of written evidence from each disputing party, the presence of a third party who seems to know more about the land in dispute even though he does not have use rights. negotiate this dispute and usually this third party becomes a provocateur in the dispute resolution mechanism.

With regard to the results of the study regarding the settlement of inheritance disputes through the Gampong Jambo Mesjid Customary Court, Blang Mangat District, Lhokseumawe City, it can be concluded that:

1. The mechanism for resolving inheritance disputes through the Customary Court in Gampong Jambo Mesjid, Lhokseumawe City that is carried out by means of deliberation between members of the Gampong Customary Court, community leaders, and also from the families of both parties to the dispute. Cases are resolved by prioritizing peace, the principle of kinship and seeking reliable sources regarding the object of dispute. In the settlement of cases, the disputing parties are given advice in accordance with the provisions of customary law, religion and applicable positive law. As a result of the joint decision, A. Gani Ali Basyah was charged with paying compensation to Ti Aman in the amount of Rp. 7.500.000, - (Seven million five hundred thousand rupiah).
2. Obstacles faced by implementers Gampong Customary Court Lhokseumawe City Mosque Jamboin resolving inheritance disputes that is; the difficulty of approaching the defendant, the occurrence of a dispute or disagreement between the defendant and the plaintiff, disputing party does not provide clear information to the Customary Court *village* and hiding the facts that led to the occurrence of inheritance dispute cases, the existence of a provoking third party who seemed to know more about the object of the dispute, the absence of accurate data about the inheritance because the distribution of inheritance was previously carried out in a familial manner.

3. Suggestions

With regard to the findings of the study, the authors suggest, among others:

1. To Gampong Customary Court who take part in the settlement of inheritance disputes, are expected to be able to open the mindset of the disputing parties regarding peace efforts and various legal aspects as well as its scope, especially in the settlement of disputes and disputes at the village level, so that if a dispute arises, it can contribute ideas and find a way. best in terms of solution.
2. Recommended to Gampong Customary Court in order to make an agreement or joint decision in written form so that it can be used as evidence later.
3. The community is advised to maintain a peaceful settlement of inheritance distribution disputes through Gampong Customary Court because the settlement of cases is in accordance with the mechanism recommended in Islamic law.