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Protection of Legitimate Heirs and Testamentary Beneficiaries in Undivided Inherited Assets

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Abstract

Background: Testamentary grants involving undivided inherited or jointly owned property may create tension between testamentary freedom and the compulsory inheritance rights of legitimate heirs, particularly when the testator's ownership share has not been clearly established.
Objective: This study analyzes the legal protection afforded to legitimate heirs and testamentary beneficiaries, the legal position of substitute heirs, and the conformity of judicial reasoning in Decision Number 656/Pdt.G/2022/PN Jkt.Sel, Decision Number 244/Pdt/2024/PT DKI, and Decision Number 62 PK/Pdt/2025 with Indonesian civil inheritance law.
Methods: Using a normative juridical method, this study employs statutory, conceptual, and case approaches. The Civil Code and the three court decisions were examined using a legal-material extraction matrix covering material facts, ownership status, inheritance positions, judicial reasoning, relevant legal provisions, and legal consequences. The extracted materials were subsequently subjected to qualitative-prescriptive analysis.
Results: The findings indicate that protecting legitimate heirs does not necessarily require the total annulment of a testamentary grant. The appropriate legal sequence is to determine the testator's ownership share, identify the legitimate and substitute heirs, establish the estate (*boedel nalatenschap*) and the compulsory portion (*legitieme portie*), and apply *inkorting* (reduction of testamentary dispositions) only to the extent that the disposition exceeds the disposable portion. Because the decisions do not provide complete valuation data, no numerical reconstruction of all inheritance shares was attempted.
Conclusion: The proportional application of Articles 903, 920, 921, and 966 of the Indonesian Civil Code can protect legitimate heirs while preserving testamentary beneficiaries' rights within the limits prescribed by law.

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INTRODUCTION

Death is an event that every living being will inevitably experience. Death not only gives rise to emotional consequences but also results in the transfer of rights and obligations from the deceased to the living. From the perspective of civil law, human beings are legal subjects from birth. Even under certain conditions, the legal interests of a child still in the womb are afforded legal protection, provided that the child is subsequently born alive (F. X. Ary Setiawan & ., 2026; Rahmawati et al., 2026). The legal consequences of a person's death with respect to their estate are governed by inheritance law, which essentially regulates the transfer of inherited assets from the testator to the heirs and determines the parties entitled to receive the inheritance (Aliya

Sandra Dewi et al., 2024).

In Decision Number 656/Pdt.G/2022/PN Jkt.Sel of the South Jakarta District Court, which was subsequently upheld through the ensuing judicial proceedings, the distribution of the inherited assets was essentially restored to the distribution prescribed by intestate succession law after the deed serving as the legal basis for the transfer of those assets was found to be legally defective. The South Jakarta District Court determined that Johana S. Nugraheni was entitled to one-half of the inheritance, while the Plaintiffs were collectively entitled to the remaining one-half, representing the share of the late Yohanes Galah Setyoadi, whose legal position they assumed as substitute heirs. The decision also ordered the delivery and distribution of the inherited assets to the heirs in accordance with their respective shares (South Jakarta District Court, 2023). The case subsequently proceeded through the appeal and judicial review stages, culminating in Supreme Court Decision Number 62 PK/Pdt/2025.

The legal considerations in this case are particularly significant because the object of the testamentary disposition was associated with the inherited assets of Soesilo and Kristijah, which had not previously been partitioned. Consequently, the portion attributable to Kristijah remained subject to dispute. This circumstance raises questions concerning the extent of a person's authority to dispose of an asset by will when ownership of that asset has not yet been individually established. In principle, the object of a grant or testamentary disposition must consist of assets over which the person undertaking the legal act has the requisite legal authority. When a disposition exceeds the portion legally owned by the transferor or infringes upon the compulsory shares of other heirs, the law provides protective mechanisms through restrictions on and reductions of the disposition (Ashar et al., 2021; Kosior, 2026; Krstic, 2019).

Under Article 903 of the Indonesian Civil Code (*Burgerlijk Wetboek*), restrictions apply to testamentary dispositions involving marital property, with the permissible disposition generally limited to the portion legally belonging to the testator. If a testamentary disposition exceeds the portion to which the testator is entitled, it may be reduced to the extent necessary to bring it within the limits of the testator's actual ownership rights (Brook, 2023). In the context of civil inheritance law, this restrictive principle is closely related to the concept of *legitime portie*, because a person's freedom to make gifts or execute a will must be exercised without depriving legitimate heirs of the compulsory shares protected by law (Andriyani et al., 2021). Accordingly, an infringement of the heirs' compulsory shares should not be understood merely as an issue concerning the formal validity of the deed; it also concerns whether the subject matter of the disposition falls within the scope of the testator's legal authority.

The development of legal scholarship also reveals an ongoing debate concerning the legal consequences of gifts or testamentary dispositions that infringe upon the legitime portie (Mariana & Djaja, 2023). On the one hand, an infringement of the compulsory share may constitute grounds for challenging the validity of a gift or will. On the other hand, another legal perspective maintains that the protection of *legitimaris* (heirs entitled to a compulsory share) may be pursued through a mechanism of reduction or a claim brought by the aggrieved party. Accordingly, not every infringement necessarily results in the automatic invalidation of the entire deed. Studies of judicial decisions also indicate that heirs whose compulsory shares have been infringed upon may bring legal claims to protect the portions guaranteed to them by law (Dewi & Sintara, 2024). This distinction in legal approaches becomes particularly important when the object of a testamentary disposition does not belong entirely to the testator, as other heirs or parties may also have legally protected interests in the same asset.

In this case, a legal tension arises between the implementation of the testator's last will and the protection of the heirs' rights. The protection of the *legitime portie* is fundamentally intended to ensure that a person's freedom to distribute their wealth through gifts or testamentary dispositions does not deprive legitimate heirs of the minimum shares guaranteed to them by law (Andriyani et al., 2021). At the same time, the law should, to the greatest extent possible, ensure that a testator's legally executed last will can still be given effect, provided that its implementation does not exceed the limits of the testator's legal authority. Thus, the legal issue concerns not only whether the heirs' compulsory shares have been infringed upon but also the appropriate and proportionate legal consequences of such an infringement.

Accordingly, this research analyzes the judge's legal reasoning in annulling the

testamentary grant deed to determine whether the protection of heirs' rights necessarily requires the annulment of the testator's entire testamentary disposition or may instead be achieved through the restriction and reduction of the portion of the disposition that exceeds the testator's legal entitlement. This issue is particularly relevant because previous studies indicate that an infringement of the *legitime portie* may give rise to legal consequences, including the filing of a lawsuit and the reduction of a gift that prejudices the rights of *legitimaris* (Ahmad & Budhiawan, 2024). Further analysis is therefore necessary to establish the legal boundaries between the annulment of an entire deed and the limited implementation of the disposition to the extent legally permissible.

Previous studies examining similar cases have primarily focused on the consequences of annulling a will for third parties who have received transfers of rights, the role of the legal system in protecting substitute heirs, and the assessment of the validity of testamentary deeds. Meanwhile, studies on the *legitime portie* in recent years have tended to emphasize the protection of heirs' compulsory shares and the legal consequences of gifts that infringe upon those shares (Dewi & Sintara, 2024). Consequently, room remains for further research into the legal position of recipients of testamentary grants when the subject matter consists of marital property or undivided inherited assets, as well as the possibility of preserving part of the testator's testamentary disposition insofar as it does not exceed the portion to which the testator is legally entitled.

In contrast to studies focusing on the existence of the *legitime portie* or the effects of annulment on third parties, this study concentrates on the legal sequence of analysis that should precede the annulment of a testamentary deed: identifying ownership of the undivided property, determining the composition of the testator's estate, identifying substitute heirs, calculating the compulsory shares, and determining the appropriate legal consequences. Accordingly, the research gap does not lie in the absence of legal provisions governing the *legitime portie*, but rather in the limited integration of ownership analysis, compulsory-share calculations, and proportionate legal consequences within a unified framework for judicial review.

This research examines the legal protection afforded to recipients of testamentary grants and the validity of testamentary grant deeds concerning marital property or undivided inherited assets. It also investigates the possibility of implementing the testator's last will by determining the portion of the assets that may lawfully be disposed of under Articles 903, 920, and 921 of the Indonesian Civil Code (*Burgerlijk Wetboek*). Specifically, this study analyzes whether uncertainty concerning ownership of the subject matter of a testamentary disposition necessitates the annulment of the entire deed or whether the disposition may still be implemented to the extent of the rights legally held by the testator, without infringing upon the compulsory shares of legitimate heirs.

Accordingly, this research aims to analyze whether the legal reasoning and decisions of the judges in South Jakarta District Court Decision Number 656/Pdt.G/2022/PN Jkt.Sel, Jakarta High Court Decision Number 244/Pdt/2024/PT DKI, and Supreme Court Decision Number 62 PK/Pdt/2025 are consistent with the legal provisions governing the legal certainty of testamentary dispositions and the protection of heirs' rights. This research also seeks to develop a legal construction capable of maintaining a balance between respect for the testator's last will, the protection of testamentary grant recipients, and the fulfillment of the compulsory shares of legitimate heirs.

METHOD

This research employed a normative juridical method using statutory, conceptual, and case approaches. The case corpus comprised South Jakarta District Court Decision Number 656/Pdt.G/2022/PN Jkt.Sel, DKI Jakarta High Court Decision Number 244/Pdt/2024/PT DKI, and Supreme Court Judicial Review Decision Number 62 PK/Pdt/2025, as the three decisions formed a single litigation chain concerning the same testamentary dispute. The legal materials included the Civil Code, the judicial decisions and their legal reasoning, and secondary legal literature on testamentary grants, *legitime portie*, joint property, substitute heirs, and *inkorting*. A decision-review matrix was used to extract the material facts, characterization of ownership, parties' arguments, applicable legal provisions, judicial reasoning (*ratio decidendi*), and resulting legal

consequences. The analysis proceeded by identifying the relevant legal facts, systematically interpreting the applicable Civil Code provisions, comparing the judicial reasoning across the three levels of adjudication, and assessing whether the legal consequences imposed were proportionate to the established legal defects. Citation accuracy was verified against the decision identifiers and the legal provisions cited in the manuscript.

RESULTS AND DISCUSSION

Results

Inheritance in the Form of Joint Property

For marriages solemnized before the enactment of Law Number 1 of 1974 on Marriage (the Marriage Law), the property relations between husband and wife were, in principle, governed by Article 119 of the Civil Code, which establishes a community of property (*gemeenschap van goederen*). Following the enactment of the Marriage Law, a distinction was introduced between joint marital property and separate property, as provided under Article 35. The regulation of marital property is an important aspect of matrimonial law because the classification of an asset as joint property or separate property determines the extent of each spouse's authority to perform legal acts concerning that asset, including when the asset subsequently becomes the subject of inheritance or a testamentary disposition (Rusmini, 2024).

An exception to the statutory community property regime may arise when a husband and wife enter into a marriage agreement. Initially, Article 147 of the Civil Code required a marriage agreement to be executed before the marriage was solemnized. Subsequent legal developments occurred through Constitutional Court Decision Number 69/PUU-XIII/2015, which allows marriage agreements to be executed not only before or at the time of marriage but also during the marriage. This development has direct implications for the ownership and management of marital assets because spouses may determine the separation or other arrangements concerning their property after the marriage has taken place (Rusmini, 2024).

In the present case, no marriage agreement was identified between the late Kristijah and the late Soesilo. Accordingly, if their marriage was solemnized before the Marriage Law came into force, the status of their property must be analyzed in accordance with the provisions governing the community of property under the Civil Code. Determining the legal status of the property is essential because the respective ownership interests of the spouses must first be established before the property can be included in an estate or made the subject of a testamentary disposition. In the context of a testamentary dispute involving joint property, identifying the portion legally attributable to the testator is an important preliminary step before calculating the *legitime portie* and assessing the validity and enforceability of the testamentary disposition (Harahap et al., 2026).

In contemporary civil inheritance law, the protection of the *legitime portie* is understood not merely as a basis for annulling an entire will but also as grounds for reducing the portion of a testamentary or lifetime disposition that exceeds the legally permissible limit. Accordingly, the testator's last will may remain enforceable to the extent that its implementation does not infringe upon the compulsory portions reserved for legitimate heirs.

In the present case, the testamentary grant made by the late Kristijah is disputed because the property designated as its object is considered not to have belonged exclusively to her. This issue must be distinguished from a defect in the formal execution of the testamentary deed. Even if the deed was executed before an authorized notary, complied with the statutory formalities, and followed the applicable procedures for making a will, the principal issue remains substantive: the extent of the testator's legal authority over the property disposed of through the testamentary instrument.

The relationship between testamentary dispositions and joint property is an important issue in inheritance law because, in principle, a person cannot dispose of property beyond the portion legally attributable to them. Article 903 of the Civil Code specifically provides that a spouse may make a testamentary disposition concerning joint property only to the extent of that spouse's share. Research on the annulment of wills involving joint property likewise demonstrates the importance of distinguishing the spouse's share from the testator's share before determining whether the testamentary disposition infringes upon the *legitime portie* or exceeds

the testator's proprietary authority (Harahap et al., 2026).

Article 903 of the Civil Code therefore provides a specific legal basis for addressing testamentary dispositions involving joint marital property. Under this provision, a spouse may dispose of joint property only to the extent that the property forms part of that spouse's share. Furthermore, where a specific item of joint property is the subject of a testamentary grant but is not ultimately allocated to the testator's heirs as part of their inheritance, the testamentary beneficiary cannot necessarily demand delivery of that particular item and may instead be entitled to compensation under the statutory provision. This rule must be distinguished from Article 966 of the Civil Code, which addresses the testamentary disposition of a specific item belonging to another person and provides for the invalidity of that particular testamentary grant. Where the testator's disposition infringes upon the *legitime portie*, Article 920 provides a separate mechanism for reduction (*inkorting*).

The Right of Legitime portie

The *legitime portie* is fundamentally an instrument for protecting heirs in the direct line of descent and ascent by limiting the testator's freedom to make lifetime gifts or testamentary dispositions. This protection is intended to prevent testamentary provisions from completely depriving qualifying heirs of the inheritance rights guaranteed to them by law. Recent studies characterize the *legitime portie* as a mechanism for balancing testamentary freedom against the interests of heirs who have a legally recognized direct family relationship with the testator.

However, an infringement of the *legitime portie* does not necessarily mean that the entire will is automatically void. Article 920 of the Civil Code grants heirs entitled to the compulsory portion (*legitimaris*) the right to seek the reduction of lifetime gifts or testamentary dispositions that infringe upon their compulsory shares. Accordingly, a claim brought by the *legitimaris* constitutes an important element in securing the restoration of the compulsory portion protected by law.

In the present case, the legal position of substitute heirs must also be taken into consideration. If a child predeceases the testator, that child's descendants may inherit by representation (*plaatsvervulling*) and receive the share corresponding to the branch of descent they represent. Comparative studies of substitute heirship in civil law likewise demonstrate that the Civil Code recognizes the right of descendants in the direct descending line to occupy the inheritance position of an heir who predeceased the testator (Widjayanto, 2024).

Accordingly, the existence of a right to the *legitime portie* on the part of the Plaintiffs does not necessarily render the entire testamentary grant made by the late Kristijah legally ineffective. The first step is to establish the portion of the disputed property that legally belonged to Kristijah after the joint marital property or community of property has been accounted for. Subsequently, the estate and the applicable *legitime portie* must be calculated. If the testamentary grant exceeds the portion that Kristijah was legally entitled to dispose of, the excess may be subject to reduction, provided that the relevant statutory requirements are satisfied.

A systematic interpretation of Articles 903, 920, 921, and 966 of the Civil Code indicates that different legal consequences must be distinguished according to the nature of the defect. Article 903 governs testamentary dispositions involving joint marital property, Article 920 provides for the reduction of dispositions infringing upon the *legitime portie*, Article 921 establishes the basis for calculating the compulsory portion, and Article 966 addresses testamentary dispositions of specific property belonging to another person. These provisions must be applied in accordance with their respective legal functions rather than treated as interchangeable grounds for reducing or annulling a testamentary disposition.

This approach allows the rights of the *legitimaris* to be protected while preserving the testator's last will to the extent permitted by law. Recent research on wills and the *legitime portie* in disputes involving joint property also emphasizes the importance of determining the respective ownership interests before calculating compulsory shares and establishing the legal consequences of a testamentary disposition (Harahap et al., 2026).

Discussion

The inheritance dispute examined in this study demonstrates that the resolution of a

testamentary grant involving undivided inherited property or joint marital property cannot be approached merely by verifying the formal existence of a will or testamentary deed. The legal analysis must begin with an examination of the legal status of the property that constitutes the subject of the testamentary disposition. This preliminary issue is decisive because testamentary freedom is not unlimited: a testator may dispose only of property that legally belongs to them or of the portion over which they have lawful dispositive authority. Where the subject of a will derives from joint marital property, a community of property, or inherited assets that have not yet been divided among the entitled parties, the testator's ownership interest must first be identified before the validity and enforceability of the testamentary grant can be assessed. Harahap et al. (2026) likewise emphasize that determining the respective shares of the spouse or other entitled parties constitutes an important initial step before the *legitime portie* and the legal consequences of the will can be established.

This issue is particularly relevant to the dispute examined in this study because the testamentary grant made by the late Kristijah concerned property whose ownership interests had not previously been fully determined. Accordingly, the principal legal question is not merely whether a valid testamentary instrument existed but whether Kristijah possessed full or only partial authority to dispose of the property included in the testamentary disposition. If part of the property remained attributable to Soesilo or his heirs, Kristijah could not lawfully dispose of that portion as though it belonged exclusively to her. The analysis must therefore distinguish between the portion legally attributable to the testator and the portion that remained outside her dispositive authority. Only after this distinction has been established can the legal consequences of the testamentary grant be properly examined.

This distinction also affects the calculation of the *legitime portie*. The compulsory portion cannot simply be calculated on the basis of the entire undivided property if part of that property does not belong to the testator. Instead, the estate must first be established by identifying the assets and ownership interests legally attributable to the testator. In this sense, determining ownership logically precedes calculating compulsory shares. Failure to follow this sequence may result in two types of legal error. First, the court may overstate the testator's estate by including property that legally belongs to another person. Second, the court may calculate the *legitime portie* on an incorrect basis, thereby distorting the rights of both legitimate heirs and testamentary beneficiaries. The determination of ownership is therefore not merely a technical preliminary matter but a fundamental element of legal certainty in inheritance adjudication.

Once the testator's ownership interest has been established, the next issue concerns the relationship between testamentary freedom and the protection afforded to legitimate heirs. Civil inheritance law recognizes an individual's freedom to determine the distribution of property through a will. This freedom enables the testator, within the limits established by law, to deviate from the ordinary distribution of the estate under intestate succession. However, such freedom is expressly limited by the institution of the *legitime portie*. Article 913 of the Civil Code protects a compulsory portion of the estate for certain heirs in the direct line, thereby preventing testamentary dispositions from completely depriving those heirs of the inheritance rights guaranteed by law. Fauzi (2024) similarly characterizes the *legitime portie* as a legal limitation on testamentary autonomy intended to preserve the minimum inheritance rights of legitimate heirs.

The legal framework therefore places two interests in a relationship that must be balanced rather than treated as mutually exclusive. On the one hand is the principle of respect for the testator's last will. A validly expressed testamentary intention should, in principle, be implemented because it reflects the individual's legally recognized autonomy over their property. On the other hand is the compulsory protection afforded to *legitimaris*, whose minimum inheritance shares cannot be eliminated through testamentary dispositions. The central legal problem arises when the testator disposes of property beyond the disposable portion or makes grants that reduce the compulsory shares of legitimate heirs. Under these circumstances, the legal consequence should not automatically be assumed to be the total invalidity of the entire testamentary disposition.

Imam (2022) indicate that a testamentary grant exceeding the *legitime portie* does not necessarily become entirely ineffective in every circumstance. The legal consequences depend, among other things, on whether the legitimate heirs assert their compulsory inheritance rights.

Where the heirs claim the portion protected by law, the testamentary disposition may be subject to reduction to the extent necessary to restore the compulsory portion. This understanding is important because it shifts the analysis from an all-or-nothing approach toward a proportional remedial mechanism. The primary legal objective is to restore the protected inheritance rights that have been impaired, not necessarily to eliminate every part of the testamentary disposition.

This distinction further demonstrates why the formal validity of a testamentary deed must be analytically separated from the substantive legality of its subject matter and scope. A testamentary deed may satisfy the formal requirements, be executed before an authorized notary, and comply with the legal procedures governing wills, yet still contain a disposition that exceeds the testator's proprietary authority or infringes upon the compulsory portion of legitimate heirs. In such a situation, the problem does not necessarily lie in the formal validity of the deed itself. Rather, it concerns the substantive extent of the testamentary disposition. The relevant question becomes how much of the property the testator was legally entitled to dispose of and whether the disposition encroached upon rights protected by inheritance law.

This distinction is particularly significant in the present case because the central dispute concerns the extent of Kristijah's authority over the property included in the testamentary grant. If the disputed assets consisted partly of property that did not belong exclusively to her, the substantive scope of the will must be assessed accordingly. It would therefore be conceptually inaccurate to treat uncertainty regarding ownership as equivalent to a defect in the formal execution of the testamentary deed. Conversely, formal compliance cannot, by itself, authorize the transfer of property that the testator did not own. A legally sound resolution must therefore examine both dimensions separately: whether the testamentary instrument was formally valid and whether the property disposed of through that instrument was substantively within the testator's legal authority.

The application of Article 920 of the Civil Code becomes central when a testamentary or lifetime disposition infringes upon the compulsory portion of legitimate heirs. The provision allows the reduction (*inkorting*) of gifts and testamentary dispositions that prejudice the *legitime portie*. This mechanism supports a proportional response because the legal remedy can be directed specifically at the portion of the disposition that exceeds the permissible limit. In this way, the law can protect the rights of *legitimaris* without unnecessarily invalidating the entire testamentary grant. Okta Luthfiana Budi Cahyani et al. (2025), in examining a testamentary grant dispute arising from Decision No. 209/Pdt.G/2023/PN.Mlg, similarly identify infringement of the *legitime portie* as a central consideration in determining the extent to which a testamentary grant may be maintained and the compulsory inheritance rights of legitimate heirs must be restored.

The significance of *inkorting* lies in its capacity to reconcile competing legal interests. An approach based on total annulment prioritizes the protection of heirs but may disregard the portion of the testator's final intention that could lawfully be implemented. At the opposite extreme, enforcing the entire testamentary disposition may disregard compulsory inheritance rights. The reduction mechanism offers an intermediate legal approach: the testamentary disposition is maintained to the extent permitted by law and reduced only insofar as it infringes upon the compulsory portion. This remedial approach is consistent with the coexistence of testamentary freedom and mandatory heir protection under the Civil Code. Nevertheless, it must be distinguished from the separate question of whether a specific testamentary grant concerns property belonging to another person, which is governed by Article 966.

The position of substitute heirs constitutes another essential dimension of the dispute. Civil inheritance law recognizes inheritance by representation (*plaatsvervulling*), under which descendants may occupy the inheritance position of an heir who predeceased the testator. The legal effect of this mechanism is that descendants inherit through the branch of descent represented by the deceased heir rather than as an entirely independent branch of succession. Ismaya & Safriani (2022) explain that substitute heirship has a normative basis under the Civil Code and directly affects the determination of inheritance shares. Mokodompit (2022) similarly observe that representation allows descendants to assume the inheritance position of an heir who died earlier in accordance with the system established by civil inheritance law.

In the case examined in this study, the position of the children of the late Yohanes Galih

Setyoadi must therefore be examined in relation to Yohanes's legal position as an heir. Their rights arise through representation of the lineage that Yohanes would have occupied had he survived until the inheritance opened. This has practical consequences for calculating both ordinary inheritance shares and the *legitime portie*. The relevant calculation cannot treat substitute heirs as entirely separate branches detached from the heir they represent. Instead, the represented lineage must first be identified, after which the share attributable to that lineage can be distributed in accordance with the applicable rules.

Recognition of *plaatsvervulling* also reinforces the need for a structured sequence of legal analysis. Before a court can determine whether a testamentary grant infringes upon the compulsory portion, it must first identify all parties who qualify as legitimate heirs, including those who inherit by representation. Failure to recognize substitute heirs may result in an incomplete calculation of the estate and an inaccurate determination of the disposable portion. The issue is therefore not merely one of identifying individuals within a family relationship but of establishing the correct legal structure of the succession.

Based on the structure of the dispute, the legal analysis should proceed through several sequential stages. The first stage is to identify the legal status of the disputed property. The court must determine whether the property constitutes separate property, joint marital property, property forming part of a community of assets, or undivided inherited property. This classification determines the extent of the testator's legal authority. Without a clear determination of the property's status, subsequent calculations of the estate and compulsory portions are vulnerable to error.

The second stage is to establish the testator's legally attributable share and distinguish it from the portions belonging to other persons. In the present case, this requires distinguishing Kristijah's share from any share attributable to Soesilo or his heirs. This determination is not merely procedural. It establishes the outer boundary of the property over which Kristijah could lawfully exercise testamentary authority. Property outside this boundary cannot be transferred merely because it is mentioned in the testamentary instrument.

The third stage is to determine the testator's estate. Once the ownership interests have been established, the estate can be calculated on the basis of the assets and shares legally attributable to the testator. Article 921 of the Civil Code is relevant at this stage because it establishes the method for calculating the *legitime portie*, including the aggregation of the assets remaining at the time of death, the addition of qualifying lifetime gifts, and the deduction of estate liabilities.

The fourth stage is to identify the legitimate heirs and substitute heirs. At this point, the court must determine who qualifies as a *legitimaris* and whether any heirs inherit through *plaatsvervulling*. This classification directly affects the calculation and distribution of compulsory shares. Only after the relevant heirs have been legally identified can the *legitime portie* be accurately calculated.

The fifth stage is to calculate the compulsory portion in accordance with the relevant provisions of the Civil Code, particularly Articles 913, 914, and 921, as applicable to the heirs and circumstances involved. This calculation provides the basis for evaluating whether the testamentary disposition exceeds the portion that the testator could freely dispose of. If the disposition falls entirely within the disposable portion, the protection of compulsory inheritance rights does not require its reduction. If it infringes upon the compulsory portion, the affected disposition may become subject to *inkorting*, subject to the applicable statutory requirements.

The sixth stage is to determine the appropriate legal consequence. Only after ownership, the composition and value of the estate, the identity of the heirs, and the compulsory shares have been established should the court determine whether total annulment, partial reduction, or another legally available remedy is appropriate. This sequence avoids premature conclusions and ensures that the remedy corresponds to the specific legal defect established in the case.

A significant limitation of the present study must nevertheless be acknowledged. The judicial materials reproduced in the manuscript do not provide complete monetary valuations or ownership fractions for every disputed asset. Consequently, the available information is insufficient to support a defensible numerical calculation of *inkorting*. Producing a precise figure without complete asset valuations, ownership records, and inheritance calculations would

amount to speculation. For this reason, the study deliberately refrains from presenting an exact distribution. Its case-specific contribution is instead to establish the legal sequence that should precede any numerical calculation: determination of ownership, identification of the testator's disposable share, recognition of substitute heirs, calculation of the compulsory portion, and, where legally applicable, determination of the portion subject to reduction.

This limitation is methodologically important because legal analysis must distinguish between a doctrinal conclusion and a numerical conclusion based on case-specific facts. The doctrinal conclusion supported by the available materials is that partial reduction may be legally available and may provide a more proportionate remedy than total annulment when a testamentary disposition infringes upon the compulsory portion. However, the precise extent of such reduction cannot be determined without sufficient factual and valuation data. The study therefore does not claim that a specific percentage or monetary amount must be restored to the heirs. Instead, it identifies the legal requirements that must be satisfied before such a calculation can be undertaken.

The importance of this sequence becomes clearer when considering the consequences of the two extreme approaches. If a testamentary grant is declared entirely invalid solely because the property was previously undivided, the decision may disregard the possibility that part of the property legally belonged to the testator and could therefore have been validly disposed of. Such an outcome may unnecessarily extinguish the rights of the testamentary beneficiary. Conversely, if the entire testamentary disposition is enforced without first determining the testator's ownership interest and calculating the heirs' compulsory shares, the rights of *legitimaris* may be impaired. Neither approach adequately reflects the balance required by inheritance law.

A more proportionate solution is therefore to identify the precise limits of the testator's legal authority and apply the appropriate remedy to the extent of the established infringement. Where the infringement concerns the compulsory portion, this may involve reducing the excessive disposition through *inkorting*. This approach corresponds with the protective purpose of the *legitime portie*. The purpose of the compulsory portion is to ensure that legitimate heirs retain the minimum share guaranteed to them by law. It is not primarily intended to invalidate the testator's entire last will when the lawful portion of that disposition can still be implemented. Likewise emphasize the protective function of the *legitime portie* in safeguarding the inheritance rights of children and other qualifying relatives when testamentary arrangements risk excluding them from their legally protected shares (Hastarini, 2026; Putra et al., 2026).

The integrated interpretation of Articles 903, 920, 921, and 966 of the Civil Code further reinforces the need for a differentiated legal analysis. Article 903 regulates testamentary dispositions involving joint marital property and limits each spouse's authority to that spouse's respective share. Article 920 provides a mechanism for reducing lifetime gifts and testamentary dispositions that infringe upon compulsory shares. Article 921 establishes the method for calculating the *legitime portie* by determining the relevant estate and accounting for qualifying lifetime gifts and liabilities. Article 966, in turn, provides that a testamentary grant of a specific item belonging to another person is invalid, regardless of whether the testator knew that the item was not theirs. These provisions should therefore be interpreted in conjunction with one another while preserving their distinct legal functions.

A systematic interpretation of the Civil Code suggests that the legal analysis should proceed from ownership determination to the calculation of the estate, from the calculation of the estate to the identification of heirs, from heirship to the determination of compulsory shares, and finally from the identification of any infringement to the selection of the appropriate remedy. This sequence provides a more coherent legal framework than an approach that immediately asks whether the testamentary deed should be annulled. The decisive question is not simply whether a legal irregularity exists but also what kind of irregularity has occurred and what legal consequence is proportionate to it.

The findings therefore indicate that the protection of legitimate heirs and respect for the testator's last will should not be understood as inherently contradictory objectives. Both can be accommodated within the same legal framework when the scope of each right is carefully determined. The testator's will should be respected within the boundaries of ownership and the disposable portion, while the rights of *legitimaris* must be protected whenever a testamentary

disposition infringes upon their compulsory shares. The mechanism of *inkorting* provides a legal means of achieving this balance where reduction is the applicable remedy.

However, the proportional approach developed in this study must remain conditional upon the facts established in each case. It should not be interpreted as a general rule that every testamentary grant involving undivided property must remain partially valid. There may be circumstances in which the formal validity of the deed is defective, ownership cannot be established, the testamentary object belongs to another person, or other legal grounds justify the invalidity of the disposition. The argument advanced here is narrower: where the principal issue concerns the extent of the testator's ownership or an infringement of the compulsory portion, the court should first determine the nature of the legal defect and assess whether the applicable legal remedy permits the disposition to be maintained in whole or in part.

This distinction also has implications for judicial reasoning. A judgment concerning a testamentary dispute should clearly explain the legal status of the property, the basis for determining the testator's ownership interest, the identity and legal position of the heirs, the calculation of the estate, the existence and extent of any *legitime portie*, and the reasons for selecting a particular remedy. Such transparency is essential because inheritance disputes often involve overlapping issues of property ownership, family relationships, and testamentary intention. Without a structured explanation, a judgment may reach a legally plausible outcome without clearly demonstrating how the relevant rights and limitations have been balanced.

The same reasoning is relevant to notarial practice. Where property that may still constitute joint marital property, undivided inherited property, or property subject to competing inheritance claims is intended to be included in a testamentary disposition, careful verification of ownership is essential. A testamentary instrument cannot, by itself, resolve uncertainty concerning ownership or title. Clear documentation of the origin and legal status of assets may therefore reduce future disputes and assist courts in determining whether a testamentary disposition falls within the testator's legal authority.

From a broader doctrinal perspective, this study contributes a sequential framework for analyzing testamentary disputes involving undivided property: determination of ownership, identification of the estate, identification of legitimate and substitute heirs, calculation of compulsory shares, assessment of the disposable portion, and selection of the appropriate legal consequence. The value of this framework lies in integrating property law with inheritance law rather than examining these areas separately. The dispute concerns not only who inherits but also what property actually belongs to the testator and can therefore lawfully enter the inheritance and testamentary distribution process.

Ultimately, the analysis indicates that total annulment of a testamentary grant may be excessively broad where the disposition can be maintained to the extent permitted by the testator's lawful ownership and dispositive authority. Where the legally permissible portion can be distinguished from the portion that infringes upon the compulsory share, *inkorting* may offer a more proportionate mechanism. It protects legitimate heirs by restoring their compulsory inheritance rights while preserving the rights of testamentary beneficiaries within the limits permitted by law. Such an approach strengthens legal certainty because the remedy is connected to the nature and extent of the infringement established in the case rather than automatically eliminating the entire testamentary arrangement.

Accordingly, the central contribution of this study lies in repositioning the dispute from a binary question of validity or invalidity toward a structured assessment of ownership, compulsory inheritance rights, and proportionate legal consequences. The protection of legitimate heirs remains imperative, but it can be implemented without unnecessarily extinguishing the testator's lawful last wishes. By integrating Articles 903, 920, 921, and 966 of the Civil Code with the doctrines of *legitime portie*, *plaatsvervulling*, and *inkorting*, this study provides a more balanced framework for understanding testamentary grants involving undivided inherited assets. This framework promotes legal certainty, fairness in inheritance distribution, protection of the testator's family, and respect for testamentary autonomy within the boundaries established by civil inheritance law.

CONCLUSION

This study concludes that the legal protection of legitimate heirs in disputes involving testamentary grants of undivided inherited or joint marital property should begin with the determination of the testator's ownership interests, the identification of substitute heirs, and the calculation of the *legitime portie* before the legal consequences of the testamentary disposition are determined. Based on the judicial materials analyzed, total annulment should not be treated as the automatic response where only part of the disposition infringes upon the testator's disposable portion or the compulsory inheritance rights of legitimate heirs. Where the relevant statutory requirements are satisfied, *inkorting* may provide a more proportionate remedy. However, the application of this mechanism must be supported by an adequate factual and numerical basis for determining the portions that may be maintained and those that must be reduced. The study's principal contribution is the proposed sequence of ownership determination, compulsory share calculation, and selection of the appropriate legal consequence for reviewing testamentary disputes. This approach simultaneously protects *legitimaris* and preserves the rights of testamentary beneficiaries within the limits established by law.

For judicial and notarial practice, the analysis supports the careful documentation of the origin and legal status of each asset, the lineage and representation status of heirs, and the basis for calculating compulsory portions before drafting or adjudicating a testamentary disposition. Future research should compare a broader range of court decisions and cases involving complete asset valuations to examine the circumstances in which partial enforcement through *inkorting* is legally appropriate in comparison with total annulment.

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AUTHOR CONTRIBUTION STATEMENT

Natasha Christina contributed to the conceptualization of the study, legal issue identification, literature review, data collection, analysis of relevant legislation and court decisions, and preparation of the original manuscript. Andriani Kartiningrum contributed to the development of the research framework, legal analysis, interpretation of findings, manuscript review, and refinement of the discussion and conclusions. Both authors participated in the final revision of the manuscript, approved the final version, and agreed to be accountable for the accuracy and integrity of the work.

REFERENCES

Ahmad, A. N., & Budhiawan, A. (2024). Pembatalan Akta Hibah karena Melanggar Legitimate Portion dalam Kitab Undang-Undang Hukum Perdata: Studi Putusan No. 17/Pdt.G/2021/PN Klb. *Al-Muamalat Jurnal Hukum Dan Ekonomi Syariah*, *9*(2), 58–69. https://doi.org/10.32505/muamalat.v9i2.9841

Aliya Sandra Dewi, Dian Fitriana, & Elvira. (2024). Penerapan hukum waris perdata di Indonesia. *The Juris*, *8*(1). https://doi.org/10.56301/juris.v8i1.1242

Andriyani, S., Wahyuningsih, W., & Irfan, M. (2021). Konsep Dan Pengaturan Ligitime Portie Dalam Pewarisan Menurut Kompilasi Hukum Islam Dan Kitab Undang-Undang Hukum Perdata. *JATISWARA*, *36*(1), 92–103. https://doi.org/10.29303/jtsw.v36i1.283

Ashar, N. W., Yunus, A., & Baharuddin, H. (2021). Kedudukan Akta Peralihan Hibah Terhadap Bagian Mutlak Ahli Waris. *Journal of Lex Generalis, Vol. 2,*(4).

Brook, J. (2023). *What is my will?: a study of the principles of testamentary autonomy and testamentary freedom*. University of Portsmouth.

Dewi, F., & Sintara, D. (2024). The right to immunity against notaries due to lawsuits against deeds of grant that violate the legitimacy of the portion (study of supreme court decision number 2892 k/pdt/2021). *Jurnal Meta Hukum*, *3*(2), 47–56.

https://doi.org/10.47652/metahukum.v3i2.664

F. X. Ary Setiawan, & . A. (2026). Application of the legitieme portie (legitimary portion) in lawsuits seeking the annulment of testamentary grants in civil courts. *YUSTISIA MERDEKA : Jurnal Ilmiah Hukum*, *12*(2), 164–175. https://doi.org/10.33319/yume.v12i2.387

Fauzi, M. R. and R. S. (2024). Perlindungan hukum terhadap hak mutlak ahli waris. *Buletin Konstitusi*. https://doi.org/10.30596/konstitusi.v5i2.22775

Harahap, E. N. I., Purba, H., & Sembiring, R. (2026). Analisis Yuridis Pembatalan Akta Wasiat Yang Melanggar Legitieme Portie Dalam Harta Bersama (Studi Putusan Mahkamah Agung Nomor 2748 K/Pdt/2022). *UNES Law Review*, *8*(3), 854–869. https://doi.org/10.31933/8yk3vq07

Hastarini, A. A. K. and A. S. (2026). Legal protection of legitieme portie heirs in Indonesian inheritance la . *Requisitoire Law Enforcement*, *18*(1), 28–38.

Imam, I. and A. T. (2022). Tinjauan hukum kedudukan akta hibah wasiat yang melampaui bagian mutlak ahli waris legitimaris: legal review of the position of the wisdom of wisdom that exceeds the absolute section of legitimary heritages. *Clavia : Journal Of Law*, 59–69.

Ismaya, N., & Safriani, A. (2022). Tinjauan yuridis terhadap ahli waris pengganti dalam Hukum Kewarisan Islam dan Hukum Kewarisan Perdata di Indonesia. *Alauddin Law Development Journal*, *4*(3), 760–770. https://doi.org/10.24252/aldev.v4i3.20141

Kosior, E. (2026). Family Foundation as an Heir. Issues of Liability for Compulsory Share and Protection of Claims of the Entitled Person to Compulsory Share Against the Family Foundation. *Teka Komisji Prawniczej PAN Oddział w Lublinie*, *19*(1). https://doi.org/10.32084/tkp.10239

Krstic, N. (2019). The Institute of Compulsory Portion as a Limitation on Testamentary Dispositions in Roman and Contemporary Law (English Language). *Ius Romanum*.

Mariana, M., & Djaja, B. (2023). Legitime Portie In the Perspective of Civil Law on the Division of Inheritance. *Edunity Kajian Ilmu Sosial Dan Pendidikan*, *2*(6). https://doi.org/10.57096/edunity.v2i6.102

Mokodompit, B. and S. A. K. (2022). Analisis pembagian warisan terhadap ahli waris pengganti menurut hukum islam dan hukum perdata . *AS-SYAMS* , *3*(2), 18–34.

Okta Luthfiana Budi Cahyani, Eti Mul Erowati, Elisabeth Pudyastiwi, & Elly Kristiani Purwendah. (2025). Hibah Wasiat yang Melanggar Legitieme Portie Menurut KUHPerdata (Studi Putusan No: 209/Pdt.G/2023/PN.Mlg). *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma*, *27*(1), 39–47. https://doi.org/10.51921/chk.s33nzh38

Pengadilan Negeri Jakarta Selatan. (2023). Putusan Nomor 656/Pdt.G/2022/PN Jkt.Sel.

Putra, A. J. S., Marniati, F. S., & Turhamun, M. S. (2026). Legal Certainty of the Forced Share (Legitime Portie) of Legitimaries in Relation to Testamentary Grants that Violate the Forced Share. *The Easta Journal Law and Human Rights*, *4*(03). https://doi.org/10.58812/eslhr.v4i03.1023

Rahmawati, D., Parmono, B., & Sunardi. (2026). Notary's responsibility for the settlement of claims by heirs who were not included in the distribution of inheritance rights. *SOSIOEDUKASI : JURNAL ILMIAH ILMU PENDIDIKAN DAN SOSIAL*, *14*(4), 4258–4267. https://doi.org/10.36526/sosioedukasi.v14i4.6999

Rusmini, R. (2024). Status harta yang dibuat dalam perjanjian perkawinan berdasarkan putusan mk no. 69/pu-xiii/2015. *Justici*, *17*(1), 75–88. https://doi.org/10.35449/justici.v17i1.779

Widjayanto, M. A. B. N. S. R. and R. N. A. (2024). Perbandingan ahli waris pengganti ditinjau dari perspektif hukum islam dan hukum perdata. *Indonesian Journal of Social Sciences and Humanities* , *4*(2), 56–64.