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Legitime portie rights in testamentary grants based on the civil code and compilation of Islamic law

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Abstract
Legitime portie is a certain part of the inheritance that cannot be written off by an heir. This is also regulated in Islamic Law which is called *ashab alfurudh* or *dzawil furudh*. However, it was found that there was a testamentary grant giving which gave rise to a dispute, where the heirs disagreed with the will grant, the provisions in the will grant deed were considered to take away legitimacy rights. The purpose of this study is to explain how the right of *legitime portie* and the legal protection if the grant of a will violates, takes or reduces the rights of the legitime portie. This research is a normative juridical research with a statutory approach, a case approach, and a comparative approach. Data collection was carried out through document studies and interviews with resource persons. The data obtained were analyzed qualitatively using inductive analysis instruments. The results of the study show that both in Islamic and western law do not justify (forbid) someone's testament that harms the heirs who should receive an inheritance. In the Civil Code, a violation of a testamentary grant against a legitime portie will result in legal consequences depending on the legitimacy's stance, that is, if the legitimacy can simply accept the fact without going to court or filing a lawsuit to the court on the basis of its absolute share. Meanwhile, in Islamic law there is a limit on the amount that can bequeath 1/3 (one third) of his property. The maximum limit for granting 1/3 is a rule of Islamic law which is intended to provide legal protection to the recipients of the inheritance from the legal actions of the heir to the recipient of the grant.

Keywords: Legitime portie, will grant, legitimacy rights

Introduction

Indonesia is a State of Law, is expressly stated in Article 1 paragraph (3) of the third amendment of the 1945 Constitution. Means that the law is placed as the highest reference (law supremacy) in the administration of the State and its government, so that the government will regulate the law to ensure the welfare of society (Yusri, 2014, 113-116) [25]. As for the Indonesian legal system of inheritance, it is regulated in Book II of the Civil Code starting from Articles 830-1130, besides, it is also regulated in the Compilation of Islamic Law.

There are three principles contained in the Civil Code of inheritance law, namely: 1) the individual principle (personal principle) in which the heir is an individual, 2) the bilateral principle, where a person not only inherits from the father but also vice versa from the mother, as well a brother inherits from his brother and sister, 3) the equality principle, meaning that heirs whose degree is close to the heir cover heirs who are farther in degree. To simplify the calculation, classifications of heirs are made (Gede Suwarni, Putu Budiartha, and Dwi Arini, 2020, 149) [6].

Civil Code inheritance law applies a principle, that if someone dies (heir), then immediately by law, his rights and obligations are transferred to his heirs, as long as these rights and obligations are included in the field of property law that means rights and liabilities can be valued in money. The civil inheritance law system has a distinct characteristic from other inheritance law systems, which requires the inheritance of the heir to be divided among those who are entitled to the property immediately (Sibarani Sabungan, 2015, 5) [19]. Basically, those who are granted to become heirs are people who have blood relations with the heir and the wife/husband of the heir are still alive when the heir dies. Therefore, there are two ways to obtain inheritance in civil inheritance law, namely Statutory Provisions (*Abintestato*) and *Testament* (Rudito Sulih, 2015, 3) [18].

All branches of law including civil law have the same basic characteristics, which are regulatory in nature and there is no element of coercion. However, for civil inheritance law, it turns out that there is an element of coercion in it. The element of coercion contained in civil law is contained in the provisions for granting *legitime portie* rights to certain heirs for a number of heirs' inheritance (Dewi Sartika Utamu, 2016, 97) [4]. *Legitime portie* is "a certain part of the inheritance that cannot be erased by the person who left the inheritance. The right to *legitime portie* only arises when a person really appears as an heir as determined in the law of inheritance" (Maman Suparman, 2017, 90) [13]. The absolute part in the Civil Code is called *legitime portie*, whereas in Islamic law the absolute part is called *dzawil furud/aṣhab al-furūḍ*.

Provisions regarding parts of inheritance in Islamic law have been contained in detail in the legal basis, which is contained in Islamic law in QS. An-Nisā verses 11, 12, and 176. There are at least six parts that have been determined for *aṣhab al-furūḍ* (heirs who receive inheritance rights with certain parts), namely ½, ⅓, ¼, ⅙, ⅛, and ⅔. Of the three verses in QS. An-Nisā, it can be determined that the number of aṣhab al-furūḍ is 13 people (Gamal Achyar, 2016, 21) [7].

Inheritance law in Islam is a law that regulates the distribution of inheritance, regulates the portions received from inheritance for parties who have rights to these assets (Israfil, Muzakir, and Aminullah, 2021, 46) [9]. Inheritance will occur if there is a cause of death, the death of the heir is one of the most basic elements in inheritance (Azharuddin, Hamid Sarong, and Iman Jauhari, 2015, 21) [2]. There are three conditions for inheritance to occur, namely: 1) There are people who die (heir), 2) There are people who are still

alive, as heirs who receive inheritance when the heir dies (heir), 3) There are a number of assets that must be inherited. left by the heir (inheritance) (Maman Suparman, 2017, 16) [13].

In Islamic law, there is no time limit for the ownership of assets. Likewise the assets obtained by the heirs through inheritance which means assets become the property of the heirs without any time limit. However, Islamic Law recommends providing benefits to others, either by *waqf*, grants, or alms which is the personal awareness of the owner of the property (Sri Walny Rahayu and Widiya Fitrianda, 2020, 41) [21].

Regardless of the determination of the absolute share, the law also does not prohibit heirs from making wills and making grants. It is possible that an inheritance is inherited based on a will and based on law. With a will, the heir can appoint someone or several heirs, the heir can give something to the heir(s). The awarding of these grants must fulfill several provisions both in positive and Islamic law. However, in reality there are grants made after the owner of the grant dies, commonly referred to as a will grant, which sometimes results in a testamentary grant giving rise to heir disputes, where there are heirs who disagree with the existence of this will grant, they assume that giving grants after the owner of the property has died is not a necessity, because every person who has died, the assets left behind are the rights of the heirs both in a straight line up and down.

This article was written to expand and enrich previous research related to the fulfillment of the right of *legitime portie* to the granting of wills. In this study, the authors focus on the discussion on *legitime portie* arrangements in the granting of wills based on the perspective of the Civil Code and Islamic Law. As for this research, it will explain how the right of *legitime portie* if the grant of a will violates, takes or reduces the rights of the *legitime portie* and its legal protection.

Research Method

The study is a normative juridical type, namely legal research conducted by examining literature or secondary data alone (Soerjono Soekanto and Sri Mamuji, 2009, 13-14) [20]. The research approach used in this study is the statutory approach that is carried out by examining and analyzing all relevant laws and regulations related to the legal issues being handled (Bambang Sunggono, 2015, 91) [3]. Then the case approach, carried out by conducting a study of cases related to issues that have become court decisions, which have permanent legal force (Syamsudin, 2007, 58) [23] and a comparative approach is one way that can be used in normative research to compare one of the legal institutions of one legal system with another which has a similar legal system. With this comparison, elements of similarities and differences between the two legal systems can be found (Jhonny Ibrahim, 2013, 313) [10].

The data collection technique in this study was literature study, using interviews and documentations. The data obtained were analyzed qualitatively using inductive analysis instruments.

Results and discussion

a. Setting absolute section in the civil code

The absolute share is a part of the inheritance that must be given to the heirs who are in a straight line according to law. The heir is not allowed to determine something, either as a gift between the living or as a testament (Article 913 of the Civil Code). The legitimator must be the statutory heir in a straight line up or down. The purpose of having a *legitime portie* regulation is to protect heirs from the actions of irresponsible heirs (Efendi Parangin, 2014, 84-91) [5].

The legitime portie regulated in the Civil Code adheres to the Roman system. This is regulated in Article 913 of the Civil Code, as follows: "An absolute part is a part of the inheritance which must be given to the heirs in a straight line according to law, on which part the deceased is not allowed to determine anything, either as a gift between those who are still alive, and as a testament". So the meaning of Article 913 of the Civil Code above is: 1) An absolute share is part of an inheritance which cannot be reduced by giving during life or giving by testament. 2) The absolute share must be given to the heirs in a straight line up or down. The straight line down is the children and their descendants and children outside of wedlock who are recognized as legitimate, while the straight line up is the parents and all their ancestors. Therefore, the legitime portie is only reserved for heirs in a straight line up and down, so that the wife or husband, siblings (uncles or aunts) are not entitled to the legitime portie. Those who are entitled to legitime portie are: 1) Those in a straight line down (Article 914 Civil Code), 2) Those in a straight line up (Article 915 Civil Code), Children out of wedlock who are recognized as legitimate (Article 916 Civil Code) (Efendi Parangin, 2014, 84-91) [5].

The regulation regarding the legitime portie is a limitation on the freedom of the testator to make a will according to his own will. According to the law, even if the husband and wife get a share equal to the size of a legitimate child as the heir, they are not entitled to an "absolute share", because the husband or wife are not included as heirs in a straight line either downwards or upwards. A legitimary has the right to claim or relinquish his legitime portie without being together with other legitimate heirs. Prosecution of an "absolute share" can only be carried out because of a grant or testamentary grant which results in a shortage of an absolute share in an inheritance after an open inheritance (Article 920 of the Civil Code). Prosecution can be made against all gifts made by the heir, either in the form of erfstelling (appointment as heir), gifts by testament (testament grant), as well as against all grants made by the heir while the heir is still alive which is called a schenking grant which results in reduced the absolute share (Maman Suparman, 2017, 92) [13].

As for the protection of legitimate portie demands, it is regulated in Article 921 of the Civil Code. In principle, the demand for legitimacy must be met, if necessary, by cutting grants or legislatures. The method of protection provided by Article 921 of the Civil Code is by determining the amount. Legitime portie must be calculated, namely by: 1) Counting all grants that have been given by the testator during his lifetime, including grants given to one of the legitime heirs. 2) The amount is added to the existing inherited assets. 3) Then deduct the debts of the heir. 4) From this amount, the amount of the legitimacy of the legitimacy is calculated (those who demand the legitime portion). 4) To determine how much is actually received by the legitimacy concerned (Maman Suparman, 2017, 94-95) [13].

b. The absolute part of Islamic law

The absolute part of Islamic law is called dzawil furudh. Dzawil furudh (ashab al-furudh) is an heir who has a part that is later determined in the Qur'an, namely those who get the right ½,1/4, 1/8, 2/3, 1/3, and 1/6. The heirs who are entitled to get dzawil furudh rights are: Furudh ½. The heirs who receive this furudh are: 1) Daughters if she is alone. 2) Sister if (biological or fatherly) he is the only one. 3) Husband, if the heir does not leave children. Furudh ¼. The heirs who receive this furudh are: 1) Husband, if the heir (wife) leaves the child. 2) Wife, if the heir (husband) does not leave children. Furudh 1/8. The heirs who receive this furudh are: Wife, if the heir leaves children. Furudh 1/6. The heirs who receive this furudh are: 1) Father, if the heir is a child. 2) Grandfather, if the heir does not leave any children. 3) Mother, if the heir leaves the child. 4) Mother, if the heir leaves several siblings. 5) Grandmother, if there is no heir, leave. 6) A brother or sister. Furudh 1/3. The heirs who receive this furudh are: 1) The mother, if she inherits with the father and the heir does not leave any children or siblings. 2) Brothers or sisters, if there is more than one. Furudh 2/3. The heirs who receive furudh are: 1) Daughters if there are more than two people. 2) Siblings or father, if there are two or more people (Mardani, 2017, 37-38) [14].

As for the similarities in regulation of Legitime Portie in Civil Code and Islamic Law, that both Legitime Portie and Dzawil Furudh regulate absolute rights that must be received by heirs, where these rights have been determined by law or Al-Qur'an so that it is not permissible disturbed. The absolute rights that have been determined must be fulfilled by the heir or who distributes the inheritance.

Differences in the Civil Code and Islamic Law in setting the absolute rights of heirs are found in the portion or amount of rights granted to heirs, and also the heirs who are determined differently between the Civil Code and Islamic Law. In the Civil Code, Legitime portie is given to heirs straight up and down, while the wife/husband and siblings (uncles and aunts) do not get Legitime portie rights. However, in Islamic law the wife/husband, along with their siblings are given the rights of Dzawil Furudh, or there are inheritance rights for them which cannot be simply removed.

Will grant provisions

a. Wills grant provisions in the civil code

Legaat is also called a testamentary grant, which is a special testamentary determination in the form of granting several objects of a certain type to one or more persons. The recipient of the legate is called the legate, not the testamentary heir, because he does not have the right to replace the heir, but he has the right to claim the heirs so that the legacy is carried out (Efendi Parangin, 2014, 78) [5].

Based on Article 966 of the Civil Code, it states that a certain object can only be used as an object of a testamentary grant if it is inherited by the heir. If an heir bequeaths a certain object belonging to another person, then the will will be void. This can involve an object that is owned by the heir or legateary, even by a third party (Maman Suparman, 2017, 140) [13]. There are differences between grants and testamentary grants, namely: a grant is a gift for life, while a will grant is a gift with a will and only takes effect after the giver dies. According to the form there are three kinds of testaments, namely: Openbaar testament, Olographis testament, closed (secret) testament (Efendi Parangin, 2014, 80-81) [5].

As for the revocation and withdrawal of the will, it can be done based on the will of the testator. Revocation of a will can be done expressly, for instance a will or testamentary gift is contrary to what was made, later or because of a certain action of the recipient that makes the bequest change his mind. Arrangements regarding the revocation and termination of the will are regulated in: Express revocation of wills (Articles 992-993 Civil Code), silent revocation (Article 993 Civil Code), revocation due to exile (Article 996 Civil Code), loss of wills (Article 999-1001 Civil Code) (Maman Suparman, 2017, 130-131) [13].

b. Wills grant provisions in Islamic law

According to Article 171 letter g of the Compilation of Islamic Law, a grant is a gift of an object voluntarily and without compensation from someone to another who is still alive to own (Mardani, 2017, 125) [14]. In language a will means a message, while in terms it means a message about something good, which must be carried out after someone dies. In a special sense, a will is a message for someone to replace/spend the assets left behind if he has died, in a good way that has been determined (Zahratul Idami, 2018, 127) [26].

As for the will to grant property to other people after the bequeathed person dies means doing commendable deeds. Through a will, a person can provide assistance to another party, regardless of whether the assistance is given for religious motivation or for purely worldly reasons. In this case, one thing that needs to be known is that the will given must not harm or neglect close family (heirs). There is a limit to the maximum number of permissible wills that must be seen as an effort to protect the rights of relatives so that they are not abandoned in the future due to giving too large a will. The maximum amount of the will is one-third of the assets owned by the person making the will. That is net assets after deducting debts if the person who made the will left assets, even if the person who died bequeathed all of his assets, then the implementation should not exceed one third of the assets left behind. Rasulullah said, which means: "In fact, the will is one third, while one third is already a lot" (Helmi Karim, 1993, 97-125) [8].

Meanwhile, if there is a testamentary grant that exceeds one third of the assets left behind, it can be resolved in one of the following ways: 1) Reduced to a limit of one third of the inherited assets. 2) The willingness of all the heirs who at that time were entitled to receive an inheritance was asked whether they were willing to accept the excess of one third, if the heirs expressed their sincerity, then granting a will that exceeds one third was lawful. There are also other provisions related to testamentary grants, including that after the grantor dies, the beneficiary of the will must state explicitly that he has received the will. This can only be done after the giver of the will has died, because when the giver of the will is alive, the will can be revoked at any time (for biological children). If the beneficiary of the will dies after the beneficiary of the will dies, but the beneficiary of the will has not expressly stated that he has received it, then their heirs are still entitled to it instead (Helmi Karim, 1993, 125) [8].

The Compilation of Islamic Law regulates the issue of canceling wills, namely in Article 197 of the Compilation of Islamic Law, namely: Wills become void if the prospective

beneficiary based on a judge's decision that has legal force remains punished, Wills become void if the person appointed to receive the will, will becomes void if the bequeathed item is destroyed (Ahmad Rofiq, 2000, 458) [1].

The author in this study took one of the cases that discussed the problem of disputes over testament grants, namely the Decision of the Religious Courts Number 329/Pdt/G/2020/PA.Batg, where in this case there was a difference of opinion between the heirs and the beneficiary of the will grant. In this case, it was found that the heir did not fulfill the will made by the testator so that the recipient of the will made a claim in court.

In the Decision of the Religious Courts Number 329/Pdt/G/2020/PA.Batg, the Judge here resolved the case using the Compilation of Islamic law. Where will the testamentary grant that has been made by the heir/maker of the testamentary grant deed be carried out. However, the implementation of the testamentary grant is not fully or not guided by the amount of the price granted in the testamentary grant deed. The judge cannot decide on a testamentary grant in accordance with the contents of the deed because the family or the heir concerned does not approve of the will grant made by the previous heir. The family considers that the will never existed, because the heir during his lifetime never mentioned or told about the will that he made. Therefore, here the judge cannot carry out the grant in accordance with the deed, but the grant made by the heir is still carried out in accordance with the provisions contained in the provisions of the Compilation of Islamic Law.

The grant is carried out and submitted in the amount of 1/3 (one third) of the property of the grantor of the will. If you look at the whole of the personal savings belonging to the testator, the amount that can be given to the beneficiary of the will (the mosque) is only Rp. 117,000,000.00- (one hundred and seventeen million rupiah) or the equivalent of 1/3 (one third) of the bequest's savings. Wills cannot be submitted in accordance with the deed, namely Rp. 200,000,000.00 (two hundred million rupiah) because this amount exceeds 1/3 of the total savings of Rp. 352,000,000.00 (three hundred fifty two million rupiah) and the position in this case is that the heirs of the testator do not give up the will. If the heirs agree or give up the will, the testament can be carried out in accordance with the testamentary grant deed, even though the total price donated exceeds 1/3 (one third) of their assets.

The limitation on the granting of this will is also due to the fact that there are absolute heirs or legitime portie who are entitled to the heir's property. In the Civil Code and Islamic law, the rights of the legitime portie heirs may not be violated. So of all the heir's assets in savings of Rp. 352,000,000.00, only Rp. Only 117,000,000.00 can be donated, the remaining Rp. 235,000,000.00 will be handed over to the heirs of the testator, because their rights cannot be contested.

As for the Compilation of Islamic Law, it states that heirs cannot cancel the testamentary grant from the heir/probate, because the Compilation of Islamic Law regulates the provisions of the grant which states that any grant that has been given cannot be withdrawn, so that the implementation of the will must be fulfilled by the heir. Heirs may not refuse or cancel the grant as long as the grant given is appropriate and does not harm the heir.

Arrangement of legitime portie in granting wills based on the perspective of civil code and compilation of Islamic law

Legitime portie is part of the heir's inheritance after death which must be given to the heirs, the intended heirs are heirs of straight line descent according to law. So the heir may not stipulate something while still alive or through his will or give grants to anyone for his inheritance which can harm the heirs that have been determined by law (Article 913 Civil Code).

Fulfillment of the right of legitime portie is carried out when all the obligations or dependents of the heir have been fulfilled, such as debts, *fidiah*, wills, testamentary grants and so on. The heirs of the heirs are required to fulfill their obligations first before the assets left by the heirs are distributed based on the rights and portions of each. Meanwhile, if the heir before he died made a bequest, then the bequest must be carried out under certain conditions.

The granting of a will is not prohibited in the Civil Code, provisions regarding testamentary grants are also contained in the Civil Code arrangements. In the Civil Code there are no special provisions governing limits on the granting of a will, in the Civil Code it only explains that if the granting of a will harms the heirs, in this case the legitime portie heirs, the heirs can demand to cancel the will that has been made by the heir. In the Civil Code, the limitation regarding testamentary grants refers to assets that will be distributed to heirs because there is a legitime portie that has been determined by law. Legally, if the testament violates the legitime portie, it will become null and void, but there is a rule made by the Supreme Court that if there is a violation of the heir's legitime portie, if the heir feels that he has not been harmed, then his nature can be canceled, if the heir does not sue its share to the court, the deed can be considered valid (Yanuar Suryadini & Alifiana Tanasya Widiyanti, 2020, 251). [24]

The characteristics of the legitime portie are as follows: 1) The legitimator can demand the cancellation of the heir's actions which are detrimental to the legitime portie. 2) the heir, however, may not be beschikken regarding the legitime portie. Meanwhile, based on Article 921 of the Civil Code, the absolute share is calculated in the following way: 1) Counting all grants that have been given by the heir during his lifetime, including grants given to one or the absolute or legitimate heirs; 1) The amount is added to the existing inherited assets; 3) Then, minus the heir's debts; 4) From the results of the addition and subtraction above, then the size of the legitime portion of the absolute heirs demanding their share is calculated (Maman Suparman, 2017, 94) [13]. The amount of the legitime portion obtained is the amount actually received by the absolute or legitimate heirs concerned. In the case of a violation of a testament to a legitimacy portion, it will result in legal consequences, but it depends on the legitimacy's attitude, that is, if the legitimacy can simply accept the fact without suing the court or filing a lawsuit in court on the basis of its absolute share (Yanuar Suryadini & Alifiana Tanasya Widiyanti, 2020, 252 -253) [24].

Whereas the Compilation of Islamic Law does not specifically discuss testamentary grants, but rather emphasizes wills because the implementation of wills can only be carried out if the bequest dies. According to Article 171 letter f of the Compilation of Islamic Law states that a will is the gift of an object from the heir to another person or

institution which will take effect after the heir dies. So it can be said that a will is a gift from a person or institution in the form of goods or objects, receivables or benefits that can be owned by the person receiving the will after the person making the will has passed away. Furthermore, in the Compilation of Islamic Law it is stated that a will to heirs is only valid if it is approved by all heirs (Article 195 paragraph 3 of the Compilation of Islamic Law). This agreement is made orally before two witnesses or in writing before two witnesses or before a Notary (Article 195 paragraph 4 Compilation of Islamic Law). Regarding the object of the will, Article 194 of the Compilation of Islamic Law stipulates that the property that can be bequeathed must be the right of the heir (paragraph 2). Ownership of the property can only be carried out after the testator dies (paragraph 3). Article 195 of the Compilation of Islamic Law states that a maximum of one-third of an inheritance is permitted only from inherited assets unless all heirs agree (paragraph 2). Statement verbally before two witnesses or in writing before two witnesses or before a Notary (paragraph 4) (Muhammad Husni, 2019, 160) [16].

In both Islamic and western law, both of them do not justify (forbid) someone's will that harms the heirs who should have inherited it. The Civil Code emphasizes that: "all the assets left by a person who has passed away belong to his heirs according to the law, only for that matter with a will no existing provisions have been taken". Article 874 of the Civil Code, which explains the meaning of a will or testament, indeed already contains a condition, that the contents of the statement (will) may not conflict with important statute of limitations, for example located in the articles concerning the legitime portie, namely the portion of inheritance that is has been determined to be the right of the heirs in the slender line and cannot be erased by the person who left the inheritance. As for protecting the heirs, especially *dzawil furudh* from the possibility of not getting the inheritance because the deceased willed it to other people, Islamic law limits the maximum amount of property that *al-mushi* can bequeath to someone or several people he wants. The maximum limit for the intended will is 1/3 (one third) of his property after all debts of the heir have been settled. If al-mushi bequeaths more than a third of the assets he has, then the heir has the right to file a lawsuit with the court to cancel al-mushi's will. Or at least they can submit objections to the party appointed by al-mushi as the executor of the will (al-washi), and al-washi is justified in changing the will that exceeds one-third of al-mushi's assets. Wills in Islamic Law are basically only addressed to other people outside the heirs, or especially to heirs who for other reasons such as *mahjub* (obstructed by other heirs) do not get inheritance (Muhammad Amin Suma, 2004, 130-131) [15].

As for the rights of the legitime portie protected by the Civil Code, namely by the existence of Article 921 of the Civil Code. Likewise in Islamic Law, there are restrictions on the granting of wills, wills can only be given 1/3 of the assets left by the testator. This restriction is made to protect the rights of *ashabul furudh* or *dzawil furudh* from the arbitrary actions of the heir in making a will. In granting wills, both the Civil Code and Islamic law use both theories of legal protection (Philiphus M Hadjon, 1987, 21) [17], namely preventive protection which is legal protection that is preventive in nature before a violation occurs (Lukmanul and Sri Walny, 2017, 449) [12]. In the Civil Code and Compilation of Islamic Law there are rules related to deterrents in the implementation of testamentary grants with the procedures and rules for making wills and in their implementation. Likewise, repressive legal protection that functions to resolve disputes when disputes occur is also applied, where there are rules governing dispute resolution if one party demands or does not want to hand over the object of the will grant, the solution that must be decided by the judge has been prearranged.

Conclusion

Both Islamic and western law do not justify (forbid) someone's testament that harms the heirs who should receive the inheritance. In the Civil Code, a violation of a testamentary grant against a *legitime portie* will result in legal consequences depending on the legitimacy's stance, that is, if the legitimacy can simply accept the fact without going to court or filing a lawsuit to the court on the basis of its absolute share. Whereas in Islamic Law there is a limit to the maximum level of property that may be bequeathed, a person can only bequeath 1/3 (one third) of his property. The maximum limit for granting 1/3 is a rule of Islamic law which is intended to provide legal protection to the recipients of the inheritance from the legal actions of the heir to the recipient of the grant.

The recommendation of this article is for those who want to make a will or testamentary grant and it is hoped that they must have a good understanding about the provisions for making a testamentary grant due to the case can only be carried out when the giver passed away, and if the grant exceeds the provisions, it will affect the heirs who left behind and trigger disputes in the future.

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